

TABLE OF CONTENTS

	PAGE
Docket Entries	1a
Complaint (Doc. No. 1, Record on Appeal)	9a
Notice of Motion for Leave to Intervene (Doc. No. 7, Record on Appeal)	17a
Order Granting Leave to Intervene (Doc. No. 9, Rec- ord on Appeal)	35a
Answer of Defendants Levitt and Nyquist (Doc. No. 12, Record on Appeal)	37a
Intervenor-Defendants' Interrogatories to Plaintiffs (Doc. No. 17, Record on Appeal)	43a
Plaintiffs' Interrogatories to Intervenor-Defendants (Doc. No. 18, Record on Appeal)	48a
Plaintiffs' Interrogatories to Defendants (Doc. No. 19, Record on Appeal)	51a
Plaintiffs' Answers to Intervenor-Defendants' Inter- rogatories (Doc. No. 20, Record on Appeal)	56a
Intervenor-Defendants' Answers to Plaintiffs' Inter- rogatories (Doc. No. 21, Record on Appeal)	61a
Defendant Nyquist's Answers to Plaintiffs' Interroga- tories (Doc. No. 24, Record on Appeal)	85a

Stipulation re Answers to Interrogatories (Doc. No. 29, Record on Appeal)	91a
Opinions of Lasker, J. and Palmieri, J. dated April 27, 1972 (Doc. No. 30, Record on Appeal)	93a
Order and Judgment dated June 1, 1972 (Doc. No. 32, Record on Appeal)	94a
Order to Show Cause and Affidavit in Support of Application for Leave to Intervene (Doc. No. 36, Record on Appeal)	95a
Order Granting Leave to Intervene (Doc. No. 39, Record on Appeal)	113a
Answer of Intervenor-Defendant Brydges (Doc. No. 43, Record on Appeal)	115a
Order dated Nov. 6, 1972 Noting Probable Jurisdiction and Consolidating Appeals	120a

Docket Entries

CIVIL DOCKET

UNITED STATES DISTRICT COURT

70 Civ. 3251

DATE	PROCEEDINGS
Jul 30-70	Filed complaint issued summons
Sept. 16-70	Filed summons with marshal's ret. Served: Nelson A. Rockefeller by Lewis Stone, Counsel on 8/3/70 (Northern Dist. N.Y.) Arthur Levitt by Alfred W. Haight, Jr. on 8/3/70. (Northern Dist. N.Y.) Ewald B. Nyquist by Joseph Gibbons, Counsel on 8/3/70 (Northern Dist. N.Y.)
Oct. 20-70	Filed Notice of Motion re: Dismiss complaint. Ret. 11/10/70
Oct. 20-70	Filed Memorandum of Law in opposition to convening 3-judge court.
Oct. 30-70	Filed Notice of Motion re: convene a 3-judge court RET. 11/10/70.
Oct. 30-70	Filed Memorandum of Law in support of 3-judge court and in opposition to motion to dismiss.
Nov. 2, 70	Filed notice of motion for leave to intervene. Ret. 11-10-70
Nov. 2, 70	Filed memorandum in support of motion to intervene as defts.
Nov. 10-70	Filed (in court) Order that Cathedral Academy, St. Ambrose School, Bishop Loughlin Memorial High School, Bais Yaakov Academy for Girls and Yeshivah Rambam have leave to intervene, etc., Lasker, J.

Docket Entries

DATE	PROCEEDINGS
Nov. 10, 70	Filed MEMO. END. on motion filed 11-2-70 Motion disposed of in accordance with consent order submitted and signed this date. So Ordered Lasker, J.
Nov. 12-70	Filed ANSWER of intervenor-Defendants to complaint.
Jan. 28-71	Filed OPINION #37360. Lasker, J. The Plaintiffs' motion to convene a 3-judge court pur. to 28 USC 2281 is granted. Defendants' motions to dismiss are denied, except that the motion to dismiss as to Gov. Rockefeller is granted. Defendants' motion to drop the Committee as a party pltf. is denied. It is so ordered. (mailed notice).
Feb. 11-71	Filed ANSWER of defts. Levitt and Nyquist.
Feb. 11-71	Filed Brief of defts. Levitt and Nyquist.
Feb. 25-71	Filed Designation of Judges for 3-Judge Court. In addition to the Hon. Morris E. Lasker to hear and determine this cause the following judges are designated: Hon. Paul R. Hays, U.S. Circuit Judge, and Hon. Edmund L. Palmieri, Dist. Judge. Lumbard, Ch.J., U.S.C.A.
Mar. 10-71	Filed ORDER that a hearing in this matter shall be held on Thursday, 4/8/71 at 10 AM in Courtroom 110, U.S. Court House; Ordered that parties shall submit memoranda etc. originals to be filed with the Clerk of this Court

Docket Entries

DATE

PROCEEDINGS

on or before 3/29/71 copies thereof to be delivered to each member of the 3-judge court at his chambers. Lasker, J. (mailed notices)

- Mar. 12-71 Filed Statutory Notice of Notice of Hearing before a 3-judge court set for 4/8/71, mailed 3/11/71.
- Jan. 13-72 Filed Intervenor-Deft's interrogs.
- Feb. 4-72 Filed plttfs' interrogs.
- Feb. 4-72 Filed plttf's interrogs to deft's.
- Feb. 14-72 Filed plttf's answers to interrogs.
- Mar. 9-72 Filed Intervenor-defts answers to plttf's interrogs.
- Mar. 10-72 Filed additional interrogs by inta rvenor-deft's to plttf's.
- Mar. 16-72 Filed Order that parties shall submit memoranda, Interrogs, etc on, or before 4-4-72, a hearing shall be held on 4-11-72, at 10:00 A.M. in courtroom 1305 of the US court house, Lasker, J
- Apr. 4-72 Filed deft's (Commissioner of Education) answers to interrogs.
- Apr. 4-72 Filed plttf's brief.
- Apr. 7-72 Filed affidavit of service by Mail by H. W. Brauer of Davis Polk & Wardwell.
- Apr. 11-72 Filed stip that deft's answers to plttf's interrogs & exhibits may be taken as accepted facts for the purposes of this case.

Docket Entries

DATE	PROCEEDINGS
Apr. 11-72	Filed reply brief for Intervenor-deft's Cathedral Academy St. Ambrose, School & B.L. Memorial High School.
Apr. 6-72	Filed Intervenor defts (Cathedral Academy et al) brief
Apr. 27-72	Filed Opinion #38450: A permanent injunction against the enforcement of the statute will be granted. The deft's motions are denied. Submit order on notice, Hays, Circuit Judge & Lasker, J. and Dissenting opinion of Palmieri, J. Mailed notice.
Apr. 27-72	Filed reply brief for Intervenor-deft's.
Apr. 27-72	Filed Brief for Intervenor-deft's
Apr. 27-72	Filed brief for plttf's.
Apr. 27-72	Filed brief for intervenor-deft's Cathedral Academy.
Apr. 27-72	Filed Reply brief for intervenor-deft's Cathedral Academy.
Apr. 11-72	Before Hays, C.J., Palmieri, D.J. & Lasker, J. Statutory Court held and concluded—Decision reserved after oral argument.
May 19-72	Filed Order & Judgment; Ordered that deft's motion to dismiss the complaint is denied. Deft's, their agents & all persons acting for, or on behalf of the State of New York are permanently enjoined from making any payments

Docket Entries

DATE	PROCEEDINGS
	or disbursements out of state funds in payment for or reimbursement of any moneys heretofore or hereafter expended by non-public elementary & secondary schools in rendering services, for examination & inspection in connection with administration, etc. Hays, Circuit Judge & Lasker, J. Judgment ent. Clerk. Ent. 5-25-72.
Jun. 1-72	Filed Order & Judgment: The order & Judgment of the Court filed on the 19th day of May, 1972, is hereby vacated as indicated. Lasker, J. Judgment Ent. Clerk. Mailed notice Ent. 1-2-72.
Jun. 6-72	Filed Intervenor-deft's affidavit & notice of motion suspending injunction ret. 6-13-72.
Jun. 6-72	Filed Intervenor-deft's memorandum of law in support of their motion.
Jun. 14-72	Filed def't's affidavit & notice of motion suspending the injunction, granted in this action, ret. in RM. 905 before Lasker, J.
Jun. 16-72	Filed Intervenor-Applicant affidavit & order to show cause for leave, to intervene ret. in Rm 905-10: A.M. on 6-20-72. before Lasker, J.
Jun. 19-72	Filed def't's NOTICE OF APPEAL to the Supreme Court.
Jun. 28-72	Filed Order that Senator Earl W. Brydges in his representative, capacity as the Majority leader, has leave to intervene in this cause &

Docket Entries

DATE

PROCEEDINGS

is made a party thereto & to that end may file his answer, he is authorized to participate in all prospective proceedings in this cause in the same manner & with like effect as if named an original party in this cause. Hays, J. Palmieri, J. & Lasker, J. m/n

- Jun. 30-72 Filed Order that motions for an order suspending the injunction heretofore entered on June 1, 1972 be, & the same hereby are denied, Judge Palmieri, dissenting. Hays, U.S.C.J. & Lasker, J.
- Jun 30-72 Filed Notice of Appeal to the Supreme Court of the U.S.A. by the Intervenor Defts. (mailed notice)
- Jun 23-72 Filed transcript of Record of Proceedings before 3-judge court, Hays, C.J., Palmieri, D.J. and Lasker, D.J. on 4/11/72.
- Jul 11-72 Filed Notice of Appeal to the Supreme Court of the U.S. by Bais Yaakov Academy for Girls.
- Jul 14-72 Filed Answer of Intervenor-Defendant Senator Earl W. Brydges.
- Jul 14-72 Filed Notice of Appeal to the Supreme Court of the U.S. by deft. Senator Earl W. Brydges.
- Aug. 8-72 Filed Order authorizing transmission of Record. Ordered that the Clerk of this Court is authorized and directed to transmit to the Clerk of the Supreme Court of the United States all of the original papers filed in the

Docket Entries

DATE

PROCEEDINGS

Office of the Clerk of this Court which are the record on appeal; further ordered that these original papers be kept safely by the Supreme Court of the United States and returned to the Clerk of this Court upon the conclusion of the appeal. Bauman, J. (mailed notice).

- Aug 15-72 Filed transcript of record of proceedings dated June 20, 1972.
- Aug 18-72 Filed Notice that the case has been certified & transmitted to the Supreme Court of the U.S.
- Sep 6-72 Filed one red portfolio containing affdvts Re: Effect of Denial of Mandated Services Act Payments Pending Appeal to U.S. Supreme Court.
- Sep 6-72 Filed Brief for defts Levitt and Nyquist.
- Sep 6-72 Filed Reply Brief for Intervenor-Defts Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School.
- Sep. 6-72 Filed Brief for Intervenor-Defendants Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School.
- Sep. 6-72 Filed stipulation that the answers filed by deft. Nyquist, Commr. of Education and by intervenor-defendants Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School, to the interrgs. propounded by pltfs. and the exhibits thereto, may be taken as accepted facts for the purposes of this case.

Docket Entries

DATE	PROCEEDINGS
Sep 7-72	Filed one envelope of affdvts Re: hearing of 6-20-72 ordered sealed and filed this date 6-27-72, placed in vault in Rm. 603. LASKER, J.
Sep 8 72	<i>Filed Transcript of record of proceedings, dated 6-20-71</i>
Sep 14, 72	Filed Order. Ordered the Clerk of this Court unseal the 49 affidavits ordered sealed by this Court on 6/27/72 Etc., that the clerk of this court, upon the return of the aforesaid affidavits from the Supreme Court of the U.S., re-seal them until further of this court. Lasker, J.
Sep 14, 72	Certified supplemental record to the US Supreme Court.
Nov. 9-72	Filed order of discontinuance adjudicated on the merits and that final judgment was entered on June 1, 1972. Bauman, J.
Nov. 13-72	Filed true copy of Order of the Supreme Court of the United States. The statements of jurisdiction in these cases having been submitted and considered by the Court, probable jurisdiction is noted. The cases are consolidated and a total of one hour is allotted for oral argument. (Mailed Notice) EA

Complaint

IN THE
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
70 Civ. 3251

COMMITTEE FOR PUBLIC EDUCATION AND RELIGIOUS LIBERTY,
BERNARD BACKER, ALGERNON D. BLACK, THEODORE BROOKS,
HERSCHEL CHANIN, NAOMI COWAN, REBECCA GOLDBLUM,
BENJAMIN HAIBLUM, BLANCHE LEWIS, EDWARD D. MOLD-
OVER, ARYEH NEIER, DAVID SEELEY, ALBERT SHANKER and
HOWARD M. SQUADRON,

Plaintiffs,

—against—

NELSON A. ROCKEFELLER, as Governor of the State of New
York, ARTHUR LEVITT, as Comptroller of the State of
New York, and EWALD B. NYQUIST, as Commissioner of
Education of the State of New York,

Defendants.

I. STATEMENT AS TO JURISDICTION

1. This is a civil action brought by the plaintiffs, on their own behalf and on behalf of all others similarly situated, for a temporary and permanent injunction against the allocation and use of the funds of the State of New York to finance the operations of schools owned and controlled by religious organizations and organized for and engaged in

Complaint

the practice, propagation and teaching of religion, and to declare such use violative of the First and Fourteenth Amendments to the Federal Constitution and of Article XI, Section 3 of the Constitution of the State of New York.

2. Jurisdiction is conferred upon this Court pursuant to Title 28, United States Code, Sections 1331, 2281, 2283, 2201 and 2202.

3. The amount in controversy in this suit, exclusive of interest and costs, is in excess of Ten Thousand Dollars (\$10,000) as more fully appears hereinafter.

4. Plaintiff COMMITTEE FOR PUBLIC EDUCATION AND RELIGIOUS LIBERTY (PEARL) is an unincorporated association whose constituent members are: American Ethical Union; American Jewish Committee, New York Chapter; American Jewish Congress; Americans for Democratic Action; Americans for Public Schools; Association of Reform Rabbis of New York City and Vicinity; B'nai B'rith; Citizens Union of the City of New York; City Club of New York; Council of Churches of the City of New York, Jewish War Veterans, New York Department; National Council of Jewish Women, New York City; National Women's Conference of American Ethical Union; New York Civil Liberties Union; New York Jewish Labor Committee; New York Metropolitan Region, United Synagogue of America; New York State Council of Churches; New York State Council, Union of American Hebrew Congregations; New York State Federation of Reform Synagogues; Public Education Association; State Congress of Parents and Teachers, New

Complaint

York City District; Unitarian Universalist Ministers Association of Metropolitan New York; United Federation of Teachers; United Parents Associations; Women's City Club of New York and Workmens Circle. The members of these organizations who reside in the State of New York are numerous and the organizational plaintiff and each of its constituent organizations carry on activities in the Southern District of New York. The organizational plaintiff and its constituents share as common objectives preservation of freedom of religion and the separation of church and state and opposition to the use of public funds for the support of sectarian or religious schools.

5. Each of the individual plaintiffs is a citizen of the United States. Each resides in the State of New York, and some reside in the Southern District of New York. Each of them pays income and various other taxes in and to the State of New York. Plaintiffs Theodore Brooks, Herschel Chanin, Naomi Cowan, Blanche Lewis, Aryeh Neier and Albert Shanker have children regularly registered in and attending the elementary or secondary grades in the public schools of New York.

6. Defendant Nelson A. Rockefeller is the Governor of the State of New York and is sued herein in that capacity. Defendant Arthur Levitt is the Comptroller of the State of New York and is sued herein in that capacity. Defendant Ewald B. Nyquist is Commissioner of Education of the State of New York and is sued herein in that capacity.

Complaint

II. FACTUAL ALLEGATIONS

7. On April 18, 1970 the defendant Nelson A. Rockefeller signed into law Chapter 138 of the Laws of 1970, effective July 1, 1970, entitled "An Act to provide for the apportionment of state monies to certain nonpublic schools in connection with inspection and examination, and making an appropriation therefor." (The text of the Act is set forth herein as Appendix A.) The Act apportions the sum of Twenty-eight million (\$28,000,000) of state moneys to be paid by the defendant Arthur Levitt, on certification of the defendant Ewald B. Nyquist, to nonpublic schools in accordance with a formula set forth therein for expenses of services for examinations, maintenance of records of pupil enrollment and reporting thereon, maintenance of pupil health records, recording of personnel qualifications and characteristics and the preparation and submission to the state of various other reports as provided for or required by law or regulation.

8. On information and belief: Each of the defendants herein has construed the aforesaid Act to encompass as beneficiaries schools owned and controlled by religious bodies, organized for and engaged in the practice, propagation and teaching of religion and schools which limit, or give preference in, admission and employment to persons of particular religious faiths and, unless enjoined by this court, will approve the payment of state funds and make such payment to such schools in violation of the Constitution of the United States and the Constitution of the State of New York as hereinafter set forth.

Complaint

9. The First Amendment of the United States Constitution, made applicable to the States by the Fourteenth Amendment, provides in part that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof * * *."

10. Section 3 of Article XI of the Constitution of the State of New York provides: "Neither the state nor any subdivision thereof shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught, but the legislature may provide for the transportation of children to and from any school or institution of learning."

11. It is against the religious conscience of each of the plaintiffs to be forced by the operation of the taxing power into contributing to the propagation of religion or for the support of religious schools.

III. CAUSES OF ACTION

12. *First Count*: Chapter 138 of the Laws of the State of New York of 1970, on its face and as construed by the defendants, is a law respecting an establishment of religion in violation of the First Amendment of the United States Constitution in that it (a) constitutes governmental financing and subsidizing of schools which are controlled by religious bodies, organized for and engaged in the practice,

Complaint

propagation and teaching of religion, and of schools limiting or giving preference in, admission and employment to persons of particular religious faiths; (b) constitutes governmental action whose purpose and primary effect is to advance religion; and (c) gives rise to an excessive governmental involvement in and entanglement with religion.

13. *Second Count*: The statute on its face and as construed by the defendants violates the First Amendment to the United States Constitution in that it prohibits the free exercise of religion on the part of the individual plaintiffs by reason of the fact that it constitutes compulsory taxation for the support of religion or religious schools.

14. *Third Count*: The statute on its face and as construed by the defendants violates Section 3 of Article XI of the Constitution of the State of New York in that it constitutes the use of public money in aid or maintenance of schools wholly or in part under the control or direction of religious denominations and in which denominational tenets or doctrines are taught.

IV. OTHER ALLEGATIONS

15. This suit involves a genuine case or controversy between the plaintiffs and defendants.

16. The plaintiffs have no plain, speedy or adequate remedy at law and will suffer irreparable injury unless a preliminary and permanent injunction is granted.

Complaint

V. PRAYERS FOR RELIEF

17. The plaintiffs pray that the following relief be granted:

(1) That a three-judge court be convened as provided in Title 28, Sections 2281 and 2283 of the United States Code to declare unconstitutional and enjoin the enforcement of Chapter 138 of the Laws of New York of 1970, as hereinbefore set forth.

(2) That the defendants and each of them be enjoined from approving or paying any funds of the State of New York to schools owned or controlled by religious bodies or organized or engaged in the practice or teaching of religion or which limit, or give preference in, admission or employment to persons of a particular religious faith, whether such approval or payment is purported to be made pursuant to the aforesaid statute or otherwise.

(3) That a preliminary injunction pending the trial of the issues be granted to the plaintiffs against the defendants for the relief sought herein.

(4) That the plaintiff be granted such other and further relief as the Court may deem just and proper.

July 30, 1970

/s/ LEO PFEFFER

LEO PFEFFER

Attorney for the Plaintiffs

Office and P. O. Address

15 East 84th Street

New York, N. Y. 10028

Telephone: (212) 879-4500

[Appendix A to Complaint, Chapter 138
of the 1970 Laws of New York, printed
in full in Appendixes to Jurisdictional
Statements]

Notice of Motion for Leave to Intervene**UNITED STATES DISTRICT COURT****SOUTHERN DISTRICT OF NEW YORK**

[TITLE OMITTED IN PRINTING]

SIRS :

PLEASE TAKE NOTICE that upon the annexed affidavits of Porter R. Chandler, sworn to October 30, 1970, and Marcel Weber, sworn to October 30, 1970, the annexed copy of the proposed Answer of Intervenor-Defendants and upon all prior pleadings and proceedings herein, Cathedral Academy, 75 Park Avenue, Albany, New York 12202, St. Ambrose School, 31 Empire Building, Rochester, New York 14604, Bishop Loughlin Memorial High School, 356 Clermont Avenue, Brooklyn, New York 11238, Bais Yaakov Academy for Girls, 88-01 102nd Street, Richmond Hill, New York 11418 and Yeshivah Rambam, 3121 Kings Highway, Brooklyn, New York 11234, will move, on their own behalf and on behalf of all other schools similarly situated, at a stated motion part to be held at Room 506, the United States Courthouse, Foley Square, New York, New York, on the 10th day of November, 1970, at ten o'clock in the forenoon or as soon thereafter as counsel may be heard, for an order:

(1) pursuant to Rule 24(a)(2) of the Federal Rules of Civil Procedure permitting said schools to intervene as of right herein as parties defendant and directing that the proposed Answer annexed hereto be filed

Notice of Motion for Leave to Intervene

as the Answer of said intervenor-defendants herein, or in the alternative

(2) pursuant to Rule 24(b) of the Federal Rules of Civil Procedure permitting said schools to intervene by permission of the Court herein as parties defendant and directing that the proposed Answer annexed hereto be filed as the Answer of said intervenor-defendants herein, and

(3) granting to said proposed intervenor-defendants such other and further relief as may be just.

Dated: New York, N. Y.
October 30, 1970

Yours, etc.

DAVIS POLK & WARDWELL

By PORTER R. CHANDLER /s/
A Member

Attorneys for Cathedral Academy, St. Ambrose School, and Bishop Loughlin Memorial High School

1 Chase Manhattan Plaza
New York, New York 10005
212 HAnover 2-3400

Notice of Motion for Leave to Intervene

JULIUS BERMAN and MARCEL WEBER

By MARCEL WEBER /s/

*Attorneys for Bais Yaakov
Academy for Girls and Yeshivah
Rambam*

425 Park Avenue

New York, New York 10022

212 PLaza 9-8400

To:

LEO PFEFFER, Esq.

Attorney for Plaintiffs

15 East 84th Street

New York, New York 10028

HONORABLE LOUIS J. LEFKOWITZ

Attorney General of the

State of New York

Attorney for Defendants

The Capitol

Albany, New York 12224

*Affidavit of Porter R. Chandler in Support of Motion
to Intervene*

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

STATE OF NEW YORK,
COUNTY OF NEW YORK, ss.:

PORTER R. CHANDLER, being duly sworn, says:

1. I am an attorney at law and a member of the firm of Davis Polk & Wardwell, attorneys for Cathedral Academy, 75 Park Avenue, Albany, New York 12202, St. Ambrose School, 31 Empire Bldg., Rochester, New York 14604, and Bishop Loughlin Memorial High School, 356 Clermont Avenue, Brooklyn, New York 11238, and I am fully familiar with the facts and circumstances herein. I make this affidavit in support of their motion to intervene as defendants in the above-entitled action pursuant to Rule 24 of the Federal Rules of Civil Procedure.

2. This action was commenced by the Committee for Public Education and Religious Liberty and thirteen individual plaintiffs, all of whom are described in the complaint. As described in the complaint, the organizational plaintiff Committee has commenced the above-entitled action as an unincorporated association with constituent organizations which have numerous members residing in the State of

*Affidavit of Porter R. Chandler in Support of Motion
to Intervene*

New York and who carry on activities in the Southern District of New York; the individual plaintiffs have commenced the above-entitled action as citizens of the United States and of the State of New York, residents of the State of New York and taxpayers to the State of New York. Plaintiffs Theodore Brooks, Herschel Chanin, Naomi Cowan, Blanche Lewis, Aryeh Neier and Albert Shanker are further described in the complaint as having children attending New York public schools.

3. The defendants are the Governor, the Comptroller and the Commissioner of Education of the State of New York.

4. The relief requested in the complaint is a declaration by a three-judge court that Chapter 138 of the Laws of 1970 (the "Act"), providing for the appropriation of funds of the State of New York to certain nonpublic schools in connection with inspection and examination, be declared unconstitutional and the named defendants be enjoined from approving or paying any funds of the State of New York to religiously affiliated schools, whether such approval is purported to be made pursuant to the Act or otherwise; and that a preliminary injunction pending trial of the issues be granted. The relief requested is premised on three different causes of action, which allege in substance that the statute and acts complained of violate the provision of the First Amendment to the Federal Constitution forbidding the establishment of religion, violate the individual plaintiffs' right to the free exercise of religion guaranteed by

*Affidavit of Porter R. Chandler in Support of Motion
to Intervene*

that Amendment, and violate Section 3 of Article XI of the Constitution of the State of New York in that they constitute the use of public money in aid or maintenance of religious schools.

5. Pursuant to the provisions of the Act, monies are paid to relieve partially the financial burden of complying with New York State regulations regarding examinations and inspection, a burden which falls on all nonpublic schools. The granting of the relief requested in the complaint would prevent the implementation of the program of state aid to nonpublic schools for expenses of services for examination and inspection in connection with administration, grading and the compiling and reporting of tests and examinations, maintenance of records of pupil enrollment and health records and various other reports as required by law or regulation of the State of New York. In the alternative, the granting of relief requested in the complaint would allow the payment of funds to private schools not religiously affiliated while prohibiting it to schools so affiliated.

6. Plaintiffs do not complain of aid to all nonpublic schools. Although as stated in their prayers for relief they seek to have the statute in its entirety declared unconstitutional, the gravamen of their complaint and their alternative prayer for relief seek to have the Court prohibit only the giving of aid to schools which have a religious affiliation.

7. The proposed intervenors are three Roman Catholic schools, one secondary and two elementary, and two Jewish

*Affidavit of Porter R. Chandler in Support of Motion
to Intervene*

elementary schools, one of which has a high school division. Bishop Loughlin Memorial High School is a Roman Catholic secondary school for boys in Brooklyn with a present enrollment of approximately 1440 students. It was originally chartered by the State of New York as St. James High School on December 16, 1897. Its name was changed to St. James Diocesan High School in 1926 and to Bishop Loughlin Memorial High School on October 12, 1933. Cathedral Academy is a Roman Catholic coeducational elementary school in Albany with a present enrollment of 562 students. It has been in operation since September 1, 1861. St. Ambrose School is a Roman Catholic coeducational elementary school in Rochester with a present enrollment of 659 students. It was founded in 1924. These three schools are all qualified for receipt of funds under the Act and have applied, or intend to apply, for such funds. The Jewish schools which join in this motion for leave to intervene are described in the accompanying affidavit of Marcel Weber.

8. The proposed intervenors request to be made defendants in this lawsuit in order to represent their own interests and the interests of all those similarly situated.


9. I have been informed that there are throughout the State of New York 257 Catholic high schools, with an approximate total of 154,000 pupils, and 1,125 Catholic elementary schools, with an approximate total of 549,000 pupils, which are eligible for the apportionment of funds under the Act.

*Affidavit of Porter R. Chandler in Support of Motion
to Intervene*

10. The interest of the proposed intervenors in supporting the constitutionality of the law here under attack and in securing the benefits of that Act for their schools, is direct and vital. That interest is not now directly represented, and is not adequately represented by the original defendants, since the defendants themselves are not direct recipients of benefits conferred by the Act now challenged and are not members of the class for whose benefit the Act was enacted. All of the proposed intervenors, on the other hand, are members of the class which the Legislature intended to aid, and for whose benefit the law was enacted. Each and all of them are so situated that the disposition of the action may as a practical matter impair or impede their ability to protect that interest.

11. The proposed intervention will not delay or prejudice the adjudication of the rights of the original parties, and the main action and the defenses of the proposed intervenors have common questions of law and fact. The Attorney General of New York, attorney for the named defendants, has informed me that he is not opposed to the proposed intervention.

12. The complaint in this action was served and filed at the end of July, 1970. The named defendants have moved to dismiss the complaint on the grounds the Court lacks jurisdiction over the subject matter of the action and that the complaint fails to state a claim upon which relief can be granted, and for certain other relief. That motion is still pending.



*Affidavit of Porter R. Chandler in Support of Motion
to Intervene*

13. In accordance with Rule 24(c) of the Federal Rules of Civil Procedure, annexed hereto as Exhibit A is a proposed pleading setting forth the defenses for which intervention is sought.

WHEREFORE, it is respectfully requested that the motion of the proposed intervenors to intervene as defendants in this action be granted, that they be given leave to move to dismiss the complaint herein and to take part in the proceedings with respect to the motion to dismiss the complaint made by the named defendants, and that they be granted leave to take part in all future proceedings in this action and that they be granted such other, further, and different relief as to this Court may seem just and proper.

/s/ PORTER R. CHANDLER

[Jurat omitted in printing]

*Affidavit of Marcel Weber in Support of Motion
to Intervene*

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

STATE OF NEW YORK,
COUNTY OF NEW YORK, ss.:

MARCEL WEBER, being duly sworn, deposes and says:

1) I am an attorney at law and co-counsel to Yeshivah Rambam and Bais Yaakov Academy for Girls and I am fully familiar with all the facts and circumstances herein. I make this affidavit in support of their motion to intervene as defendants in the above entitled action, pursuant to Rule 24 of the Federal Rules of Civil Procedure.

2) The proposed intervenors, Yeshivah Rambam and Bais Yaakov Academy for Girls, are Jewish day schools and request to be joined as defendants in this lawsuit, in order to represent their own interests and the interests of all those similarly situated. Both of these schools are eligible and have applied for apportionment of funds under Chapter 138 of the Laws of 1970, the "Act".

3) The Bais Yaakov Academy for Girls was founded in 1959, as a Jewish elementary school, under the laws of the State of New York. In 1968 a high school division was started. The enrollment for the 1970-71 school year consists of 285 girls, of which 49 attend the high school.

*Affidavit of Marcel Weber in Support of Motion
to Intervene*

4) The Yeshivah Rambam is a co-educational elementary school, founded in 1945, under the laws of the State of New York, with an enrollment for the 1970-71 school year of 510 students.

5) I have been informed that there are, in New York State, 130 Jewish elementary schools with a total enrollment of approximately 41,000 pupils and 64 Jewish high schools, with a total enrollment of approximately 14,000 pupils.

6) I have read the accompanying affidavit of Porter R. Chandler and fully agree therewith. I have also read the proposed answer annexed thereto and, on behalf of my clients, subscribe to its contents.

WHEREFORE, it is respectfully prayed that the motion of Yeshivah Rambam and Bais Yaakov Academy for Girls and the other proposed intervenors, to intervene as defendants in this action, be granted and that they be given leave to take part in all proceedings in this action and that they be granted such other, further and different relief as to this Court may seem just and proper under the circumstances.

/s/ MARCEL WEBER

[Jurat omitted in printing]

Exhibit A Annexed to Motion to Intervene

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

70 Civ. 3251

COMMITTEE FOR PUBLIC EDUCATION AND RELIGIOUS LIBERTY,
 BERNARD BACKER, ALGERNON D. BLACK, THEODORE BROOKS,
 HERSCHEL CHANIN, NAOMI COWAN, REBECCA GOLDBLUM,
 BENJAMIN HAIBLUM, BLANCHE LEWIS, EDWARD D. MOLD-
 OVER, ARYEH NEIER, DAVID SEELEY, ALBERT SHANKER and
 HOWARD M. SQUADRON,

Plaintiffs,

—against—

NELSON A. ROCKEFELLER, as Governor of the State of New
 York, ARTHUR LEVITT, as Comptroller of the State of
 New York, and EWALD B. NYQUIST, as Commissioner of
 Education of the State of New York,

Defendants,

and

CATHEDRAL ACADEMY, ST. AMBROSE SCHOOL, BISHOP LOUGH-
 LIN MEMORIAL HIGH SCHOOL, BAIS YAAKOV ACADEMY FOR
 GIRLS and YESHIVAH RAMBAM,

Intervenor-defendants.

 ANSWER OF INTERVENOR-DEFENDANTS

Intervenor-Defendants Cathedral Academy, 75 Park Av-
 enue, Albany, New York 12202, St. Ambrose School, 31

Exhibit A Annexed to Motion to Intervene

Empire Building, Rochester, New York 14604 and Bishop Loughlin Memorial High School, 356 Clermont Avenue, Brooklyn, New York 11238 by their attorneys Davis Polk & Wardwell and intervenor-defendants Bais Yaakov Academy for Girls, 88-01 102nd Street, Richmond Hill, New York 11418 and Yeshivah Rambam, 3121 Kings Highway, Brooklyn, New York 11234 by Julius Berman and Marcel Weber, their attorneys, on their own behalf and on behalf of all other schools similarly situated, for their answer to the complaint herein:

1. Deny the allegations of paragraphs 1 and 2 except admit that this action purports to be brought as described therein.
2. Are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 3, 4 and 5.
3. Admit the allegations contained in paragraph 6 of the complaint.
4. Answering paragraph 7, admit that on April 18, 1970 defendant Nelson A. Rockefeller signed into law Chapter 138 of the Laws of 1970, effective September 1, 1970 (not July 1 as alleged), entitled "An Act to provide for the apportionment of state monies to certain nonpublic schools in connection with inspection and examination, and making an appropriation therefor" and respectfully refer to the said statute for the provisions thereof.
5. Are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in

Exhibit A Annexed to Motion to Intervene

paragraph 8 except deny that "unless enjoined by this court, [defendants] will . . . make such payment . . . in violation of the Constitution of the United States and the Constitution of the State of New York."

6. Admit the allegations of paragraphs 9 and 10.

7. Deny each and every allegation contained in paragraph 11 except are without knowledge or information sufficient to form a belief as to the truth of the allegations concerning the religious consciences of the plaintiffs.

8. Deny each and every allegation contained in paragraphs 12, 13, 14, 15 and 16.

FIRST DEFENSE

9. The complaint fails to set forth a claim against defendants upon which relief can be granted.

SECOND DEFENSE

10. Plaintiffs lack capacity to bring this action.

THIRD DEFENSE

11. This court lacks jurisdiction over the subject matter of this action in that the amount in controversy is less than \$10,000.00, exclusive of interest and costs.

FOURTH DEFENSE

12. This action seeks, among other things, to invalidate Chapter 138 of the Laws of 1970, to the extent that it provides for or permits payment to religiously-affiliated

Exhibit A Annexed to Motion to Intervene

schools, on the ground that the statute violates Article XI, Section 3 of the New York Constitution.

13. Said claim does not arise under the Constitution or laws of the United States and is purely a matter governed by the laws of the State of New York.

14. In the event that plaintiffs' contention under Article XI, Section 3 is sustained, no issue will or could arise under the Constitution or laws of the United States.

15. The Courts of the State of New York have not passed on the validity under the New York Constitution of Chapter 138 of the Laws of 1970, to the extent that it provides for or permits payments to religiously-affiliated schools.

16. By reason thereof, the complaint herein should be dismissed without prejudice so that the courts of the State of New York may pass upon the validity of said statute under the New York Constitution.

FIFTH DEFENSE

17. The intervenor-defendants and other schools similarly situated are created and operated in full compliance with the compulsory education laws of the State of New York. The pupils who attend these schools have the right, guaranteed by the constitutions of the United States and of the State of New York, so to attend. Said schools have a right under Chapter 138 of the laws of New York of 1970 to receive a per pupil allotment in accordance with a formula set forth therein to alleviate the financial burden

Exhibit A Annexed to Motion to Intervene

imposed upon them by the laws of the State of New York or political subdivisions thereof with respect to record keeping, examination and other administrative requirements.

18. To forbid the payment of funds under Chapter 138 to the intervenor-defendants and others similarly situated, which are schools lawfully created in compliance with the compulsory education laws as private schools conducted under religious auspices, while permitting payment of said funds to other private schools not conducted under religious auspices, would be an interference with the free exercise and enjoyment of religion by the intervenor-defendants and other schools similarly situated, by the pupils attending such schools and by their parents, and would be contrary to the First and Fourteenth Amendments to the Constitution of the United States and contrary to Article I, Section 3, of the Constitution of the State of New York.

SIXTH DEFENSE

19. Repeat and reallege paragraph 17 hereof.

20. To forbid the payment of funds under Chapter 138 to the intervenor-defendants and other schools similarly situated, which are lawfully created in accordance with the compulsory education laws as private schools conducted under religious auspices, while permitting the payment of such funds to other private schools not under religious auspices, would be a denial to the intervenor-defendants and other schools similarly situated, to the pupils attending such schools and to their parents of the equal protection of the laws and would discriminate against them because of their

Exhibit A Annexed to Motion to Intervene

creed and religion, contrary to the First and Fourteenth Amendments to the Constitution of the United States and contrary to Article I, Section 11, of the Constitution of the State of New York.

SEVENTH DEFENSE

21. Repeat and reallege paragraph 17 hereof.

22. To forbid the payment of funds under Chapter 138 to the intervenor-defendants and other schools similarly situated, which are lawfully created in accordance with the compulsory education laws as private schools conducted under religious auspices while permitting the payment of such funds to other private schools not under religious auspices, would be a deprivation and denial to the intervenor-defendants and other schools similarly situated, to the pupils attending such schools and to their parents of their liberty and property without due process of law and would be contrary to the Fifth and Fourteenth Amendments to the Constitution of the United States and contrary to Article I, Section 6, of the Constitution of the State of New York.

WHEREFORE, intervenor-defendants demand judgment dismissing plaintiffs' complaint and granting to said intervenor-defendants such other and further relief as may be just.

Exhibit A Annexed to Motion to Intervene

Dated: New York, New York

October 30, 1970

DAVIS POLK & WARDWELL

By

A Member

*Attorneys for Intervenor-Defendants
Cathedral Academy, St. Ambrose
School and Bishop Loughlin
Memorial High School*

Office and P. O. Address

1 Chase Manhattan Plaza

New York, New York 10005

212 HANover 2-3400

JULIUS BERMAN and MARCEL WEBER

By

*Attorney for Intervenor-Defendants
Bais Yaakov Academy for Girls
and Yeshivah Rambam*

Office and P. O. Address

425 Park Avenue

New York, New York 10022

212 PLaza 9-8400

Order Granting Leave to Intervene
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
70 Civ. 3251

COMMITTEE FOR PUBLIC EDUCATION AND RELIGIOUS LIBERTY,
BERNARD BACKER, ALGERNON D. BLACK, THEODORE
BROOKS, HERSCHEL CHANIN, NAOMI COWAN, REBECCA
GOLDBLUM, BENJAMIN HAIBLUM, BLANCHE LEWIS, ED-
WARD D. MOLDOVER, ARYEH NEIER, DAVID SEELEY, ALBERT
SHANKER and HOWARD M. SQUADRON,

Plaintiffs,

—against—

NELSON A. ROCKEFELLER, as Governor of the State of New
York, ARTHUR LEVITT, as Comptroller of the State of
New York, and EWALD B. NYQUIST, as Commissioner of
Education of the State of New York,

Defendants.

ORDER

This cause coming on to be heard on the motion of Cathedral Academy, St. Ambrose School, Bishop Loughlin Memorial High School, Bais Yaakov Academy for Girls and Yeshivah Rambam for leave to intervene as defendants in this action, and the Court having considered said motion, the affidavits of Porter R. Chandler sworn to on October 30, 1970 and Marcel Weber, sworn to on October 30, 1970, and the proposed answer submitted by the aforesaid inter-

Order Granting Leave to Intervene

venors, and it appearing to the Court that notice of said motion has been duly served on all parties to this action, that none of such parties is opposed to the proposed intervention, and that the said intervenors are entitled to become parties and should be permitted to intervene as defendants in this action, and the Court being fully advised in the premises, it is

ORDERED, that Cathedral Academy, St. Ambrose School, Bishop Loughlin Memorial High School, Bais Yaakov Academy for Girls and Yeshivah Rambam have leave to intervene in this cause and are hereby made parties defendant thereto, and

IT IS FURTHER ORDERED that the proposed Answer of intervenor-defendants heretofore served on all other parties to this action be filed with the Clerk of this Court as the Answer of said intervenor-defendants.

/s/ MORRIS E. LASKER
United States District Judge

Dated: November 10, 1970

Answer of Defendants Levitt and Nyquist**UNITED STATES DISTRICT COURT****SOUTHERN DISTRICT OF NEW YORK****70 Civ. 3251**

COMMITTEE FOR PUBLIC EDUCATION AND RELIGIOUS LIBERTY,
BERNARD BACKER, ALGERNON D. BLACK, THEODORE
BROOKS, HERSCHEL CHANIN, NAOMI COWAN, REBECCA
GOLDBLUM, BENJAMIN HAIBLUM, BLANCHE LEWIS, ED-
WARD D. MOLDOVER, ARYEH NEIER, DAVID SEELEY, ALBERT
SHANKER and HOWARD SQUADRON,

Plaintiffs,

—against—

ARTHUR LEVITT, as Comptroller of the State of New York,
and EWALD B. NYQUIST, as Commissioner of Education
of the State of New York,

Defendants,

—and—

CATHEDRAL ACADEMY, Albany, New York, ST. AMBROSE
SCHOOL, Rochester, New York, BISHOP LOUGHLIN
MEMORIAL HIGH SCHOOL, Brooklyn, New York, BAIS
YAAKOV ACADEMY FOR GIRLS, Richmond Hill, New York,
and YESHIVAH RAMBAM, Brooklyn, New York,

Intervenor-Defendants.

The defendants Arthur Levitt, as Comptroller of the
State of New York, and Ewald B. Nyquist, as Commissioner

Answer of Defendants Levitt and Nyquist

of Education of the State of New York, for their answer to the complaint herein allege:

1. Defendants admit allegations of paragraphs "7", "9", "10" and "15" of the complaint herein.

2. Defendants deny each and every allegation of paragraphs "3", "12", "13", "14" and "16" of the complaint herein.

3. Defendants deny knowledge or information sufficient to form a belief as to the allegations of paragraphs "4", "5" and "11" of the complaint herein.

4. As to the allegations of paragraph "1" of the complaint herein, defendants admit that the allegations thereof set forth the express purpose of this action on behalf of plaintiffs but deny the legal conclusions set forth therein.

5. As to the allegations of paragraph "2" of the complaint herein, admit only that the complaint alleges that jurisdiction is conferred upon this Court by the cited sections of Title 28 of the United States Code, but deny any legal conclusions therefrom as to the merits of the action.

6. As to the allegations of paragraph "6" of the complaint herein, admit the allegations thereof, except allege that the complaint has been dismissed against the defendant Nelson A. Rockefeller and that he is no longer a party to this action.

7. As to the allegations of paragraph "8" of the complaint herein, admit that Chapter 138 of the Laws of 1970

Answer of Defendants Levitt and Nyquist

provides for payments for certain services to sectarian, as well as non-sectarian, nonpublic schools, but deny that such payments are in violation of either the Constitution of the United States or of the State of New York.

FOR A FIRST, SEPARATE AND DISTINCT
DEFENSE HEREIN, THE DEFENDANTS ALLEGE:

8. The complaint herein initially raises the question of whether or not Chapter 138 is valid under the provisions of Article XI, §3 of the Constitution of the State of New York, which prohibits the use of public moneys by the State in aid or maintenance, "other than for examination or inspection", or any school wholly or in part under the control or direction of any religious denomination or in which any denominational doctrine or tenet is taught. Chapter 138 specifically states that the moneys provided therein are to be apportioned and paid "for examination and inspection" in connection with the administration of tests and the maintaining of records required by the State of nonpublic schools.

9. The complaint alleges that the moneys provided for in Chapter 138 are not provided under the exception to the prohibition of Article XI, §3.

10. The first issue to be determined in this action, therefore, is whether the moneys so provided are or are not to be paid in accordance with said exception to the constitutional prohibition. If the New York State Constitution were interpreted to prohibit expenditures to sectarian schools under Chapter 138, as contended by the plaintiffs, then the

Answer of Defendants Levitt and Nyquist

issues raised under the Constitution of the United States need not be reached.

11. The construction of the State constitutional provision is a threshold question to the issues raised under the Constitution of the United States and the complaint should be dismissed on the ground that a Federal Court should not adjudicate the validity of a state statute fairly open to interpretation until the State Courts have been afforded a reasonable opportunity to interpret it.

FOR A SECOND, SEPARATE AND DISTINCT
DEFENSE HEREIN, THE DEFENDANTS ALLEGE:

12. The expressed purpose of Chapter 138 of the New York Laws of 1970 is to compensate nonpublic schools, without regard to their status as sectarian or nonsectarian schools, for expenses incurred by those schools in making reports to the State, keeping records required by the State, and in administering tests required by State law and regulation. State law requires that students enrolled in nonpublic schools comply with compulsory attendance requirements identical to those of the public schools, which entails the keeping of detailed attendance records by the nonpublic schools and reports to the State. State law requires that certain courses be taught in all schools, public and nonpublic alike, and that teachers in nonpublic schools have similar educational qualifications to those teaching in public schools. These requirements also entail the keeping of records and reports to the State Department of Education. Certain tests of academic achievement must be administered to students in nonpublic and public schools alike, and specific health records must be maintained.

Answer of Defendants Levitt and Nyquist

13. All of these records and test requirements involve additional expense to the nonpublic schools for which they are not compensated, although the public schools are partially compensated therefor in the form of state-aid.

14. The provisions of Chapter 138 constitute a partial reimbursement for the costs imposed on the nonpublic schools by State requirements and do not constitute a prohibited involvement with religion.

15. Chapter 138 has a secular legislative purpose, the insuring that nonpublic schools provide adequate education to children enrolled therein, and a primary effect which neither advances nor inhibits religion, since it provides only reimbursement for State imposed costs unrelated to any religious educational activity of the schools.

WHEREFORE, defendants Arthur Levitt, as Comptroller of the State of New York, and Ewald B. Nyquist, as Commissioner of Education of the State of New York, demand a judgment and decree of this Court dismissing the complaint herein and declaring Chapter 138 of the New York Laws of 1970 to be constitutional in all respects or dismissing the complaint herein on the ground that a Federal Court should not adjudicate the validity of a State statute until the State Courts have been afforded a reasonable opportunity to interpret it.

Answer of Defendants Levitt and Nyquist

Dated: Albany, New York
February 8, 1971.

LOUIS J. LEFKOWITZ
*Attorney General of the
State of New York*

By JEAN M. COON /s/
*Assistant Attorney General
Attorney for Defendants
Levitt and Nyquist*
The Capitol
Albany, New York 12224

Intervenor-Defendants' Interrogatories to Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

70 Civ. 3251

**COMMITTEE FOR PUBLIC EDUCATION AND
RELIGIOUS LIBERTY, *et al.*,**

Plaintiffs,

—against—

**NELSON A. ROCKEFELLER, as Governor of the
State of New York, *et al.*,**

Defendants.

S I R S :

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, plaintiffs are required to answer the following interrogatories under oath within 30 days after service thereof:

1. Set forth each and every respect in which it is claimed at paragraph 12 of the complaint herein that Chapter 138 of the Laws of 1970, on its face, gives rise to governmental involvement in religion.

2. Set forth each and every respect in which it is claimed that said statute, as construed by defendants, gives rise to governmental involvement in religion.

Intervenor-Defendants' Interrogatories to Plaintiffs

3. With respect to plaintiffs' answers to Interrogatories 1 and 2, explain specifically and in detail plaintiffs' contentions that such involvement is "excessive", as alleged at paragraph 12 of the complaint.

4. Set forth each fact known to plaintiffs which supports their answer to Interrogatory 3, together with the source of each such fact.

5. Set forth each and every respect in which it is claimed at paragraph 12 of the complaint herein that said statute, on its face, gives rise to governmental entanglement with religion.

6. Set forth each and every respect in which it is claimed that said statute, as construed by defendants, gives rise to governmental entanglement with religion.

7. With respect to plaintiffs' answers to Interrogatories 5 and 6, explain specifically and in detail plaintiffs' contentions that such entanglement is "excessive", as alleged at paragraph 12 of the complaint.

8. Set forth each fact known to plaintiffs which supports their answer to Interrogatory 7, together with the source of each such fact.

9. Set forth each and every respect in which it is claimed that said statute, on its face, constitutes governmental action whose purpose and primary effect is to advance religion.

Intervenor-Defendants' Interrogatories to Plaintiffs

10. Set forth each and every respect in which it is claimed that said statute, as construed by defendants, constitutes governmental action whose purpose and primary effect is to advance religion.
11. Set forth each fact known to plaintiffs which supports their answers to Interrogatories 9 and 10, together with the source of each such fact.
12. Explain fully what plaintiffs mean by the term "governmental financing and subsidizing of schools . . .", as alleged at paragraph 12 of the complaint.
13. State whether plaintiffs contend that any moneys disbursed to religiously-affiliated private schools under said statute has been used for the instruction or dissemination of religious doctrine, or for the purchase of any goods or services in connection therewith. If so, set forth each fact known to plaintiffs which supports their answer, together with the source of each such fact.
14. Set forth each fact known to plaintiffs which supports the allegations made by them at paragraph 13 of the complaint, together with the source of each such fact.
15. Set forth each fact known to plaintiffs which supports the allegations made by them at paragraph 14 of the complaint, together with the source of each such fact.

Intervenor-Defendants' Interrogatories to Plaintiffs

16. With respect to the allegations made at paragraph 14, do plaintiffs contend that the portion of Article XI(3) of the New York Constitution providing:

"... other than for examination or inspection ..."

is inapplicable to Chapter 138 of the Laws of 1970?

17. If plaintiffs' answer to Interrogatory 16 is in the affirmative, state:

(a) whether it is claimed that the quoted portion of Article XI(3) is inapplicable on the face of Chapter 138 or as that statute has been construed by defendants or both;

(b) set forth each and every respect in which it is claimed that said provision is inapplicable to said statute;

(c) set forth each and every fact known to plaintiffs which supports their answers to Interrogatories 16 and 17(a)-(b), together with the source of each such fact; and

(d) set forth each legal authority upon which plaintiffs rely with respect to their answers to Interrogatories 16 and 17(a).

18. State the name and address of any witnesses whom plaintiffs expect to call to testify in this action, together with a summary of the nature of any such testimony.

Intervenor-Defendants' Interrogatories to Plaintiffs

Dated: New York, New York

March 19, 1971

DAVIS POLK & WARDWELL

By

A Member

Attorneys for Intervenor-Defendants

Cathedral Academy, St. Ambrose

School and Bishop Loughlin

Memorial High School

1 Chase Manhattan Plaza

New York, N. Y. 10005

JULIUS BERMAN and MARCEL WEBER

By

Attorneys for Intervenor-Defendants

Bais Yaakov Academy for Girls

and Yeshivah Rambam

425 Park Avenue

New York, N. Y. 10022

To:

LEO PFEFFER, Esq.

Attorneys for Plaintiffs

15 East 84th Street

New York, N. Y. 10028

HONORABLE LOUIS J. LEFKOWITZ

Attorney General of the

State of New York

80 Centre Street

New York, N. Y. 10013

Plaintiffs' Interrogatories to Intervenor-Defendants**UNITED STATES DISTRICT COURT****SOUTHERN DISTRICT OF NEW YORK**

[TITLE OMITTED IN PRINTING]

SIRS:

The plaintiffs herein, pursuant to Rule 33 of the Federal Rules of Civil Procedure, propound the following interrogatories to the defendants Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School, and demand that these interrogatories be answered fully and separately in the manner and within the time provided by law. The plaintiffs state that these interrogatories are continuing in nature and that at such time that further information becomes available, it shall be submitted as a further answer to these interrogatories.

1. As to each school, state whether an application or applications have been made for payments as provided for by Chapter 138 of the Laws of New York 1970. If so, please submit a copy of each such application.

2. (a) State whether any funds have been received by each of said schools pursuant to said law.

(b) If so, please set forth specifically what sums have been received up to the present time.

(c) If so, please specify in detail how and for what purposes these sums were expended.

Plaintiffs' Interrogatories to Intervenor-Defendants

(d) State if any audits were made by or for each of said schools indicating how the sums received from the state were expended. If any such audit or audits were made, please submit a copy of each.

(e) If sums were so received, state whether any report or reports have been submitted to any agency or officer of the State of New York regarding the expenditure of such funds and, if so, please submit copies of all such reports.

3. As to each school, state whether such school

(a) imposes religious restrictions on admissions;

(b) requires attendance of pupils at religious activities;

(c) requires obedience by students to the doctrines and dogmas of a particular faith;

(d) requires pupils to attend instruction in the theology or doctrine of a particular faith;

(e) is an integral part of the religious mission of the church sponsoring it;

(f) has as a substantial purpose of the institution the inculcation of religious values;

(g) imposes religious restrictions on faculty appointments; and

(h) imposes religious restrictions on what or how the faculty may teach.

Plaintiffs' Interrogatories to Intervenor-Defendants

Dated: New York, New York
February 3, 1972.

/s/ LEO PFEFFER

LEO PFEFFER

Attorney for Plaintiffs

15 East 84th Street

New York, New York 10028

To:

DAVIS POLK & WARDWELL

Attorneys for Intervenor-Defendants

1 Chase Manhattan Plaza

New York, New York 10005

HONORABLE LOUIS J. LEFKOWITZ

Attorney General of the State of New York

State Capitol

Albany, New York 12224

Plaintiffs' Interrogatories to Defendants**UNITED STATES DISTRICT COURT****SOUTHERN DISTRICT OF NEW YORK**

[TITLE OMITTED IN PRINTING]

S I R S :

The plaintiffs herein, pursuant to Rule 33 of the Federal Rules of Civil Procedure, propound the following interrogatories to the defendants ARTHUR LEVITT and EWALD B. NYQUIST, and demand that these interrogatories be answered fully and separately in the manner and within the time provided by law. The plaintiffs state that these interrogatories are continuing in nature and that at such time that further information becomes available, it shall be submitted as a further answer to these interrogatories.

1. Referring to Section 2 of Chapter 138 of the Laws of New York 1970, state

(a) Whether any investigation had been made prior to the enactment of this law as to the amounts required to reimburse qualifying schools "for expenses of services for examination and inspection in connection with administration, grading and the compiling and reporting of the results of tests and examinations, maintenance of records of pupil enrollment and reporting thereon, maintenance of pupil health records, recording of personnel qualifications and characteristics and the preparation and submission to the

Plaintiffs' Interrogatories to Defendants

state of various other reports as provided for or required by law or regulation. . . .”

(b) If such an investigation was made, state when and by whom it was made.

(c) If such an investigation was made and its conclusions committed to writing, please submit a copy of the report of the investigation and of the conclusions.

(d) In the event the conclusions were not committed to writing, please summarize the conclusions and the bases upon which they were reached.

(e) On what basis was the formula for apportioning sums to each qualifying school as set forth in the law arrived at. If the formula was based on the estimated expenses to the qualifying schools of the services set forth in the law, please state whether the estimate was based upon all such services or only upon such services as are “provided for or required by law or regulation.”

2. Referring to the services listed in Section 2 of the law, please specify what services are “provided for or required by law or regulation.”

3. In applying the law, state whether the defendants interpret it to allow reimbursement for all services of the type set forth in the law or only those which are “provided for or required by law or regulation.”

4. State whether the qualifying schools are required to submit reports accounting for the moneys received and

Plaintiffs' Interrogatories to Defendants

how they are expended. If so, state what steps are taken to verify the correctness of these reports.

5. State whether any investigation had been made as to how the qualifying schools expend the sums received under this law. If so, state the result of such investigation, setting forth specifically what percentages are used for

(a) Services "provided for or required by law or regulation";

(b) Other services of the type set forth in the law though not provided for or required by law or regulation;

(c) Other purposes of the qualifying schools, specifying such purposes.

6. State if any reports or analyses have been made by defendants in respect to the use by qualifying schools of sums already apportioned to them under the law. If so, please submit a copy or copies thereof.

7. State whether or not in applying the law, schools are disqualified from receiving appointments thereunder if

(a) They impose religious restrictions on admissions;

(b) Require attendance of pupils at religious activities;

(c) Require obedience by students to the doctrines and dogmas of a particular faith;

(d) Require pupils to attend instruction in the theology or doctrine of a particular faith;

Plaintiffs' Interrogatories to Defendants

(e) The schools are an integral part of the religious mission of the church sponsoring it;

(f) The inculcation of religious values is a substantial purpose of the institution;

(g) They impose religious restrictions on faculty appointments; and

(h) They impose religious restrictions on what or how the faculty may teach.

8. State the name and official title of the person or persons responsible for the administration of the law.

9. State whether rules, regulations or guidelines for the administration of the law have been issued, and if so please submit copies of each.

10. State whether schools seeking funds under the law are required to submit applications therefor, and if so please submit forms of such applications.

11. (a) State whether schools receiving funds under the law are required to submit periodic reports on the expenditure of funds so received. If so, please submit a form of the report required to be submitted.

(b) If reports are required to be submitted, state whether these reports are audited or whether any other steps are taken and, if so, what steps, to verify their correctness.

55a

Plaintiffs' Interrogatories to Defendants

Dated: New York, New York
February 3, 1972.

/s/ LEO PFEFFER

LEO PFEFFER

Attorney for Plaintiffs

15 East 84th Street

New York, New York 10028

To:

HONORABLE LOUIS J. LEFKOWITZ

Attorney General of the State of New York

State Capitol

Albany, New York 12224

DAVIS POLK & WARDWELL

Attorneys for Intervenor-Defendants

1 Chase Manhattan Plaza

New York, New York 10005

**Plaintiffs' Answers to Intervenor-Defendants'
Interrogatories**

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

[TITLE OMITTED IN PRINTING]

S I R S :

The plaintiffs herewith submit the following Answers to the Interrogatories propounded by the Intervenor-Defendants Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School:

1. Plaintiffs claim that Chapter 138 of the Laws of 1970 on its face gives rise to government involvement in religion in the following respects:

(a) The statute provides for direct grants to finance the operations of religious school systems which are the integral part of the religious mission of churches, and that the substantial religious character of these church related schools give rise to sustained and detailed administrative relationships of the kind the Religion Clauses of the First Amendment sought to avoid.

(b) The statute provides that grants to the parochial schools shall be on an annual basis, thereby requiring continuing governmental involvement in religion.

(c) The statute requires reports by the religious schools necessary for the carrying out of the purposes of the statute, thereby involving the government in religion.

*Plaintiffs' Answers to Intervenor-Defendants'
Interrogatories*

(d) The statute results in governmental involvement in religion by reason of the fact that it will cause political division along religious lines.

(e) To the extent that the statute requires that the moneys granted by the State thereunder be used only for the purposes set forth in Section 2 thereof, it requires governmental involvement in religion in the policing by the State of the administration of the law and of the religious schools to assure compliance with such requirements of the statute.

2. Plaintiffs claim that the defendants have construed the statute as set forth above in answer to Interrogatory 1 and that accordingly the answer to Interrogatory 1 is equally applicable to Interrogatory 2.

3. Plaintiffs contend that the involvement set forth in the answer to Interrogatory 1 is as a matter of law excessive.

4. Plaintiffs contend that the statute as a matter of law requires excessive involvement of government in religion. Plaintiffs reserve the right to submit additional facts showing in detail the actual involvement of government in religion in the administration of the statute since its enactment.

5. Answered above in response to Interrogatory 4.

6. Answered above in response to Interrogatory 4.

7. Answered above in response to Interrogatory 4.

*Plaintiffs' Answers to Intervenor-Defendants'
Interrogatories*

8. Answered above in response to Interrogatory 4.

9. Plaintiffs contend that the statute constitutes governmental action whose purpose and primary effect is to advance religion in that

(a) it provides for a direct subsidy of governmental funds for the operation of religious schools by reason of the fact that the expenses financed under Section 2 are ordinary and necessary expenses in the operation of all schools; and

(b) that the sums set forth in Section 2 bear no relationship to the expenses of services set forth in Section 2 and in fact the sums set forth in the statute exceed the amount required to pay for the expenses set forth in the section thus allowing the religious schools to utilize the excess for the teaching and advancement of religion.

10. Answered in response to Interrogatory 9.

11. Plaintiffs have been unable to find any facts which support the formula for payments set forth in Section 2 of the Act. Plaintiffs believe that the amounts set forth in the Act grossly exceed the sums necessary to pay the expenses of the services therein stated. Plaintiffs reserve the right to submit additional facts showing governmental action whose purpose and primary effect is to advance religion.

12. Plaintiffs mean by the term "governmental financing and subsidizing of schools" that (a) the funds provided for in the Act are used in part to subsidize the normally required operations of religious schools, and (b) to subsidize

*Plaintiffs' Answers to Intervenor-Defendants'
Interrogatories*

religious teachings and practices in those schools to the extent that the sums appropriated are not fully required to pay for the expenses of the services specified in Section 2 of the Act.

13. Plaintiffs contend that to the extent that the sums granted to the religious schools under the Act exceed the amounts necessary to pay the expenses of the services set forth in Section 2 of the Act, the said excesses are used in whole or in part for the instruction or dissemination of religious doctrine and for the purchase of goods or services in connection therewith. Plaintiffs reserve the right to submit additional facts in support of this contention.

14. It is against the conscience of the individual plaintiffs herein to contribute compulsorily to the teaching and dissemination of religious doctrine and that the use of tax raised funds for the payments provided for in the Act compels them to contribute to the teaching and dissemination of religious doctrine.

15. The statute on its face and as construed by defendants includes in its coverage schools wholly or in part under the control or direction of religious denominations and in which denominational tenets or doctrines are taught. Plaintiffs reserve the right to submit additional facts in answer to this Interrogatory.

16. Plaintiffs contend that the sums provided in Section 2 of the statute exceed the amounts necessary for payment

*Plaintiffs' Answers to Intervenor-Defendants'
Interrogatories*

of the services provided in that statute and to that extent Article XI(3) is inapplicable to the statute. Plaintiffs contend further that the services set forth in Section 2 of the statute go beyond "examination or inspection" and to that extent the said constitutional provision is inapplicable.

17. Answered in response to Interrogatory 16.

Dated: New York, New York
February 10, 1972.

/s/ LEO PFEFFER

LEO PFEFFER

Attorney for Plaintiffs

15 East 84th Street

New York, New York 10028

To:

DAVIS POLK & WARDWELL

1 Chase Manhattan Plaza

New York, New York 10005

Attorneys for Intervenor-Defendants

HON. LOUIS J. LEFKOWITZ

Attorney General of the State of New York

State Capitol

Albany, New York 12224.

[Certificate omitted in printing]

**Intervenor-Defendants' Answers to Plaintiffs'
Interrogatories**

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

SIRS:

The intervenor-defendants Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School, for their answers to plaintiffs' written interrogatories served February 4, 1972, state:

Interrogatory 1. As to each school, state whether an application or applications have been made for payments as provided for by Chapter 138 of the Laws of New York 1970. If so, please submit a copy of each such application.

Answer: Cathedral Academy filed applications for payments for the school years 1970-71 and 1971-72. Copies of the Form SA-170 used for each year are appended hereto as Exhibits 1 and 2, respectively. St. Ambrose School filed applications for payments for the schools years 1970-71 and 1971-72. Copies of the Form SA-170 used for each year are appended hereto as Exhibits 3 and 4, respectively. Bishop Loughlin Memorial High School filed applications for payments for the school years 1970-71 and 1971-72. Copies of the Form SA-170 used for each year are appended hereto as Exhibits 5 and 6, respectively.

*Intervenor-Defendants' Answers to Plaintiffs'
Interrogatories*

Interrogatory 2(a). State whether any funds have been received by each of said schools pursuant to said law.

Answer: Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School have received funds pursuant to the said law.

Interrogatory 2(b). If so, please set forth specifically what sums have been received up to the present time.

Answer:

	<u>1970-71</u>	<u>1971-72</u>
Cathedral Academy	\$15,311.70	\$ 7,347.28
St. Ambrose School	\$17,900.10	\$ 8,828.91
Bishop Loughlin M.H.S.	\$64,057.50	\$30,580.20

Interrogatory 2(c). If so, please specify in detail how and for what purposes these sums were expended.

Answer: The sums were received as reimbursement for expenses of services for examination and inspection in connection with administration, grading and the compiling and reporting of the results of tests and examinations, maintenance of records of pupil enrollment and reporting thereon, maintenance of pupil health records, recording of personnel qualifications and characteristics and the preparation and submission to the state of various other reports as provided for or required by law or regulation during the school year 1970-71 and the school year 1971-72 to date and were deposited in the general account of each school.

*Intervenor-Defendants' Answers to Plaintiffs'
Interrogatories*

Interrogatory 2(d). State if any audits were made by or for each of said schools indicating how the sums received from the state were expended. If any such audit or audits were made, please submit a copy of each.

Answer: No audits are required by law or regulation, and none were made.

Interrogatory 2(e). If sums were so received, state whether any report or reports have been submitted to any agency or officer of the State of New York regarding the expenditure of such funds and, if so, please submit copies of all such reports.

Answer: No reports are required by law or regulation, and none were submitted.

Interrogatory 3. As to each school, state whether such school

(a) imposes religious restrictions on admissions;

Answer: Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School do not impose religious restrictions on admissions.

(b) requires attendance of pupils at religious activities;

Answer: Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School do not require attendance of pupils at religious activities.

(c) requires obedience by students to the doctrines and dogmas of a particular faith;

*Intervenor-Defendants' Answers to Plaintiffs'
Interrogatories*

Answer: Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School do not require obedience by students to the doctrines and dogmas of a particular faith.

(d) requires pupils to attend instruction in the theology or doctrine of a particular faith;

Answer: Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School require pupils to attend the total instructional program including classes in the principles of the Roman Catholic faith.

(e) is an integral part of the religious mission of the church sponsoring it;

Answer: Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School contribute to the religious mission of the Church, but are not an integral part thereof.

(f) has as a substantial purpose of the institution the inculcation of religious values;

Answer: Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School have as a substantial purpose of the respective institutions the exposition of religious values and their function in life and learning, not the inculcation of such values.

(g) imposes religious restrictions on faculty appointments;

*Intervenor-Defendants' Answers to Plaintiffs'
Interrogatories*

Answer: Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School do not impose religious restrictions on faculty appointments.

and (h) imposes religious restrictions on what or how the faculty may teach.

Answer: The teaching at Cathedral Academy, St. Ambrose School and Bishop Loughlin Memorial High School is restricted only to the extent that it should not be contrary to the tenets of the Roman Catholic Church.

Dated: New York, New York
March 2, 1972

DAVIS POLK & WARDWELL

By PORTER R. CHANDLER /s/
A Member thereof


*Attorneys for Intervenor-defendants
Cathedral Academy, St. Ambrose
School and Bishop Loughlin
Memorial High School*

1 Chase Manhattan Plaza
New York, N. Y. 10005

Telephone: HAnover 2-3400

[Certificates omitted in printing]

EXHIBIT 1 ANNEXED TO INTERVENOR-
DEFENDANTS' ANSWERS TO
PLAINTIFFS' INTERROGATORIES

(See Opposite) 

INSTRUCTIONS

Each nonpublic school meeting the requirements set forth in the Guidelines and desiring to make application for aid based on attendance should complete two copies of this application in pen or by typewriter. The Guidelines contain detailed instructions for completing this application. One completed copy of this application must be filed with State Aided Programs, Division of Educational Finance by November 1, 1970. One copy should be retained in the school.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
DIVISION OF EDUCATIONAL FINANCE
STATE AIDED PROGRAMS
ALBANY, NEW YORK 12224

APPLICATION FOR NONPUBLIC SCHOOL APPORTIONMENT

1970-71 School Year Form SA-170

1. Name of nonpublic school		CATHEDRAL ACADEMY	
2. Identification #		(Leave Blank)	
3. Location	75 PARK AVENUE	ALBANY	N.Y. 12202 Albany
	No. and Street	City, Town or Village	Zip Code County
4. Mailing address of school			N.Y.
	No. and Street	Post Office	Zip Code County
5. Name of corporate entity	ALBANY DIOCESAN SCHOOL BOARD, INC.		
6. Mailing address of entity	40 NORTH MAIN CAVE	ALBANY N.Y.	12203 ALBANY
	No. and Street	Post Office	Zip Code County
7. Date school registered			
8. Registered name			
9. Date entity incorporated	23 October, 1970		
10. Incorporation name	ALBANY DIOCESAN SCHOOL BOARD, INC.		
11. Religious affiliation	ROMAN CATHOLIC		
12. Name of person completing this form	Sister Anne Martin, C.S.J.		
13. Telephone of person completing form	434 5232		

I, REVEREND THOMAS J. MALONEY the undersigned, do hereby make application to the Commissioner of Education for the apportionment provided for in Chapter 138, Laws of 1970 and further certify with reference to the nonpublic school above that:

1. It is a non-profit school in the State, other than a public school, which provides instruction in accordance with section 3204 of the Education Law.
2. It is providing instruction for all students without regard to race, color, religion, creed or national origin. If the school is a religious or denominational educational institution, students otherwise qualified have the equal opportunity to attend therein without discrimination because of race, color or national origin in accordance with section 313 of the Education Law, and the school has filed with the Commissioner a statement in accordance with section 313 of the Education Law.

*Exhibit 1 Annexed to Intervenor-Defendants'
Answers to Plaintiffs' Interrogatories*

3. It is keeping an accurate record of the attendance of minor children attending such school in the form prescribed by the Commissioner in accordance with section 3211 of the Education Law.
4. It is providing equivalent instruction for all children in the first eight grades in arithmetic, reading, spelling, writing, English language, geography, United States history, civics, hygiene, physical training, New York State history and science, and in grades nine through twelve in English, civics, and American history, in accordance with section 3204 of the Education Law.
5. It is observing the provisions of sections 801-811 and is providing instruction in the special areas required by the Education Law as follows:
 - a) Patriotism and citizenship for all pupils over eight years of age
 - b) Correct use and display of the flag
 - c) Physical training for all pupils over eight years of age
 - d) Physiology and hygiene, including the nature and the effects on the human system of
 - 1) alcoholic drinks
 - 2) narcotics and habit-forming drugs (applies to courses of study beyond the first eight years)
 - e) The provisions of the Constitution of the United States in the eighth and higher grades
 - f) Highway safety and traffic regulations
 - g) Fire prevention and fire drills
 - h) Observe Conservation Day and provide instruction in this area
 - i) The humane treatment of animals and birds (in the elementary grades)
6. It is staffed by teachers who are certified by the Commissioner or who meet all the requirements of the school in which they teach for the position in which the teacher serves, as certified by the chief administrative officer of the school.
7. It is complying with section 3002 of the Education Law by having all teachers in the school take the oath of allegiance.
8. It is conducting three civil defense shelter drills during each school year.
9. It has submitted the Secondary School Reports and Basic Educational Data System (BEDS) Report as applicable and as required in accordance with the Commissioner's Regulations and these Guidelines.
10. It has submitted the Certificate of Religious or Denominational Institution as required by section 313 of the Education Law in those instances wherein the school has elected to request such exceptions.

Affidavit of Chief Administrative Officer

(All nonpublic schools must complete Part I; nonpublic schools which are not incorporated must complete Part II.)

PART I

State of New York

County of ALBANY) ss
-----)

Rev. Thomas J. Maloney -----Chief Administrative

Officer of CATHEDRAL ACADEMY ALBANY, being duly sworn,
deposes and says that all statements in this application are true
to the best of his knowledge.

Signature Thomas J. Maloney
Chief Administrative Officer

Title Superintendent of Schools

PART II

I, Rev. Thomas J. Maloney -----, the undersigned do
certify that the corporate entity to which apportionments shall be
made in behalf of CATHEDRAL ACADEMY, ALBANY ----- school is
as follows -----
Albany Diocesan School Board, Inc. -----

and request that the Commissioner of Education approve such corporate
entity for the purposes of Chapter 138 of the Laws of 1970.

Signature Thomas J. Maloney
Chief Administrative Officer
Title Superintendent of Schools

Subscribed and sworn to before me this 29th -----
day of October ----- 1970.

ALBINO A. C. 1970
Notary Public
State of New York
County of Albany

Signature Thomas J. Maloney
Notary Public

EXHIBIT 2

INSTRUCTIONS

Each nonpublic school meeting the requirements set forth in the Guidelines and desiring to make application for aid based on attendance should complete two copies of this application in pen or by typewriter. The Guidelines contain detailed instructions for completing this application. One completed copy of this application must be filed with the Office for Nonpublic School Services by October 1. One copy should be retained by the school.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE FOR NONPUBLIC SCHOOL SERVICES
WASHINGTON AVENUE
ALBANY, NEW YORK 12224

MANDATED SERVICES
APPLICATION FOR NONPUBLIC SCHOOL APPORTIONMENT
CHAPTER 138 OF THE LAWS OF 1970

1971-72 School Year Form SA-170

EXHIBIT 2 ANNEXED TO INTERVENOR-
DEFENDANTS' ANSWERS TO
PLAINTIFFS' INTERROGATORIES

1. Name of nonpublic school CATHEDRAL ACADEMY
2. Identification # 01-01-00-11-5470
3. Location 75 Park Avenue Albany N.Y. 12202 Albany
No. and Street City, Town or Village Zip Code County
4. Mailing address of school 75 Park Avenue Albany
No. and Street Post Office Zip Code County
5. Name of corporate entity ALBANY CATHEDRAL SCHOOL BOARD, INC.
6. Mailing address of entity 60 North Main Avenue N.Y. 12202 Albany
No. and Street Post Office Zip Code County
7. Date school registered _____
8. Registered name _____
9. Date entity incorporated October 23, 1971
10. Incorporation name ALBANY CATHEDRAL SCHOOL BOARD, INC.
11. Religious affiliation ROMAN CATHOLIC
12. Name of person completing this form Sister Anne Martin, C.S.J.
13. Telephone of person completing form 462-5222 (Area Code) 518

I, REVEREND THOMAS J. FOLEY the undersigned, do hereby make application to the Commissioner of Education for the apportionment provided for in Chapter 138, Laws of 1970 and further certify with reference to the nonpublic school above that:

1. It is a nonprofit school in the State, other than a public school, which provides instruction in accordance with section 3204 of the Education Law.
2. It is providing instruction for all students without regard to race, color, religion, creed or national origin. If the school is a religious or denominational educational institution, students otherwise qualified have the equal opportunity to attend therein without discrimination because of race, color or national origin in accordance with section 313 of the Education Law, and the school has filed with the Commissioner a statement in accordance with section 313 of the Education Law. (NEW APPLICATION ONLY)

3. It is keeping an accurate record of the attendance of minor children attending such school in the form prescribed by the Commissioner in accordance with section 3211 of the Education Law.

4. It is providing equivalent instruction for all children in the first eight grades in arithmetic, reading, spelling, writing, English language, geography, United States history, civics, hygiene, physical training, New York State history and science, and in grades nine through twelve in English, civics, and American history, in accordance with section 3204 of the Education Law.

5. It is observing the provisions of sections 801-811 and is providing instruction in the special areas required by the Education Law as follows:

- a) Patriotism and citizenship for all pupils over eight years of age;
 - b) Correct use and display of the flag;
 - c) Physical training for all pupils over eight years of age;
 - d) Physiology and hygiene, including the nature and the effects on the human system of:
 - 1) alcoholic drinks
 - 2) narcotics and habit-forming drugs (applies to courses of study beyond the first eight years);
 - e) The provisions of the Constitution of the United States in the eighth and higher grades;
 - f) Highway safety and traffic regulations;
 - g) Fire prevention and fire drills;
 - h) Observe Conservation Day and provide instruction in this area;
 - i) The humane treatment of animals and birds (in the elementary grades);
6. It is staffed by teachers who are certified by the Commissioner or who meet all the requirements of the school in which they teach for the position in which the teacher serves, as certified by the chief administrative officer of the school.

7. It is complying with section 3002 of the Education Law by having all teachers in the school take the oath of allegiance.

8. It is conducting three civil defense shelter drills during each school year.

9. It has submitted the attendance report AT6N, Secondary School Reports and Basic Educational Data System (BEDS) Report as applicable and as required in accordance with the Commissioner's Regulations and these Guidelines.

10. It has submitted the Pupil Evaluation Program Tests for third and sixth grades. Pupils who normally will be taking Regents or equivalent level courses are considered to be above the minimum competence level of the ninth-grade reading and arithmetic tests and may be excused from taking these tests.

11. It has submitted the Certificate of Religious or Denominational Institution as required by section 313 of the Education Law in those instances wherein the school has elected to request such exceptions.

(All nonpublic schools must complete Part I; nonpublic schools which are not incorporated must complete Part II.)

County of Albany) ss

Chief Administrative

Officer of.....Cathedral Academy, Albany....., being duly sworn,
deposes and says that all statements in this application are true
to the best of his knowledge. 11 0 1

is knowledge. *James J. Beloney*
Signature.....
Chief Administrative Officer

Title	Superintendent of Schools

Approved: _____, the undersigned,
Special Agent in Charge

-----school
-----allany
-----board, inc.

and request that the Commissioner of Education approve such corporate entity for the purposes of Chapter 138 of the Laws of 1970.

Signature Thomas J. Maloney
Chief Administrative Officer

Title.....Superintendent of Schools

Subscribed and sworn to before me this-----

Day of *November* ----- 19*71*!

Thomas G. Lawrence
Notary Public

EXHIBIT 3

INSTRUCTIONS

Each nonpublic school meeting the requirements set forth in the Guidelines and desiring to make application for aid based on attendance should complete two copies of this application in pen or by typewriter. The Guidelines contain detailed instructions for completing this application. One completed copy of this application must be filed with State Aided Programs, Division of Educational Finance by November 1, 1970. One copy should be retained in the school.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
DIVISION OF EDUCATIONAL FINANCE
STATE AIDED PROGRAMS
ALBANY, NEW YORK 12224

APPLICATION FOR NONPUBLIC SCHOOL APPORTIONMENT

1970-71 School Year Form SA-170

EXHIBIT 3 ANNEXED TO INTERVENOR-
DEFENDANTS' ANSWERS TO
PLAINTIFFS' INTERROGATORIES

1. Name of nonpublic school ST. AMEROSE SCHOOL
2. Identification # _____ (Leave Blank)
3. Location 31 EMPIRE BLVD. ROCHESTER N.Y. 14609 MONROE
No. and Street City, Town or Village Zip Code County
4. Mailing address of school _____
No. and Street Post Office N.Y. Zip Code County
5. Name of corporate entity DEPARTMENT OF EDUCATION, DIOCESE OF ROCHESTER, INC.
6. Mailing address of entity 50 CHESTNUT STREET ROCHESTER N.Y. 14604 MONROE
No. and Street Post Office Zip Code County
7. Date school registered _____
8. Registered name _____
9. Date entity incorporated _____
10. Incorporation name DEPARTMENT OF EDUCATION, DIOCESE OF ROCHESTER, INC.
11. Religious affiliation ROMAN CATHOLIC
12. Name of person completing this form SISTER ROSEMARY ST. PETER S.S.J.
13. Telephone of person completing form 716-288-0580

I, REV. DANIEL BRENT the undersigned, do hereby make application to the Commissioner of Education for the apportionment provided for in Chapter 138, Laws of 1970 and further certify with reference to the nonpublic school above that:

1. It is a non-profit school in the State, other than a public school, which provides instruction in accordance with section 3204 of the Education Law.
2. It is providing instruction for all students without regard to race, color, religion, creed or national origin. If the school is a religious or denominational educational institution, students otherwise qualified have the equal opportunity to attend therein without discrimination because of race, color or national origin in accordance with section 313 of the Education Law, and the school has filed with the Commissioner a statement in accordance with section 313 of the Education Law.

*Exhibit 3 Annexed to Intervenor-Defendants'
Answers to Plaintiffs' Interrogatories*

3. It is keeping an accurate record of the attendance of minor children attending such school in the form prescribed by the Commissioner in accordance with section 3211 of the Education Law.
4. It is providing equivalent instruction for all children in the first eight grades in arithmetic, reading, spelling, writing, English language, geography, United States history, civics, hygiene, physical training, New York State history and science, and in grades nine through twelve in English, civics, and American history, in accordance with section 3204 of the Education Law.
5. It is observing the provisions of sections 801-811 and is providing instruction in the special areas required by the Education Law as follows:
 - a) Patriotism and citizenship for all pupils over eight years of age
 - b) Correct use and display of the flag
 - c) Physical training for all pupils over eight years of age
 - d) Physiology and hygiene, including the nature and the effects on the human system of
 - 1) alcoholic drinks
 - 2) narcotics and habit-forming drugs (applies to courses of study beyond the first eight years)
 - e) The provisions of the Constitution of the United States in the eighth and higher grades
 - f) Highway safety and traffic regulations
 - g) Fire prevention and fire drills
 - h) Observe Conservation Day and provide instruction in this area
 - i) The humane treatment of animals and birds (in the elementary grades)
6. It is staffed by teachers who are certified by the Commissioner or who meet all the requirements of the school in which they teach for the position in which the teacher serves, as certified by the chief administrative officer of the school.
7. It is complying with section 3002 of the Education Law by having all teachers in the school take the oath of allegiance.
8. It is conducting three civil defense shelter drills during each school year.
9. It has submitted the Secondary School Reports and Basic Educational Data System (BEDS) Report as applicable and as required in accordance with the Commissioner's Regulations and these Guidelines.
10. It has submitted the Certificate of Religious or Denominational Institution as required by section 313 of the Education Law in those instances wherein the school has elected to request such exceptions.

Affidavit of Chief Administrative Officer

(All nonpublic schools must complete Part I; nonpublic schools which are not incorporated must complete Part II.)

PART I

State of New York

County of---MONROE-----) ss
-----)

--REV. DANIEL BRENT-----Chief Administrative

Officer of--ST. AMBROSE SCHOOL-----, being duly sworn,
deposes and says that all statements in this application are true
to the best of his knowledge.

Signature-----
Chief Administrative Officer

Title-----
SUPERINTENDENT OF SCHOOLS

PART II

I,---REV. DANIEL BRENT-----, the undersigned do
certify that the corporate entity to which apportionments shall be
made in behalf of--ST. AMBROSE SCHOOL, ROCHESTER-----school is
as follows--DEPARTMENT OF EDUCATION, DIOCESE OF ROCHESTER-----

and request that the Commissioner of Education approve such corporate
entity for the purposes of Chapter 138 of the Laws of 1970.

Signature-----
Chief Administrative Officer
Title-----
SUPERINTENDENT OF SCHOOLS

Subscribed and sworn to before me this-----

day of-----19--.

Notary Public

INSTRUCTIONS

Each nonpublic school meeting the requirements set forth in the Guidelines and desiring to make application for aid based on attendance should complete two copies of this application in pen or by typewriter. The Guidelines contain detailed instructions for completing this application. One completed copy of this application must be filed with the Office for Nonpublic School Services by October 1. One copy should be retained by the school.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE FOR NONPUBLIC SCHOOL SERVICES
WASHINGTON AVENUE
ALBANY, NEW YORK 12224

MANDATED SERVICES

APPLICATION FOR NONPUBLIC SCHOOL APPORTIONMENT
CHAPTER 138 OF THE LAWS OF 1970

1971-72 School Year Form SA-170

EXHIBIT 4 ANNEXED TO INTERVENOR-
DEFENDANTS' ANSWERS TO
PLAINTIFFS' INTERROGATORIES

76a

1. Name of nonpublic school St. Ambrose
2. Identification # 26-08-01-16-6159
3. Location 31 Empire Blvd. Rochester N.Y. 14609 Monroe
No. and Street City, Town or Village Zip Code County
4. Mailing address of school N.Y.
No. and Street Post Office Zip Code County
Department of Education, Diocese of Rochester, Inc.
5. Name of corporate entity Department of Education, Diocese of Rochester, Inc.
6. Mailing address of entity 50 Chestnut St. Rochester N.Y. 14604 Monroe
No. and Street Post Office Zip Code County
7. Date school registered _____
8. Registered name _____
9. Date entity incorporated October 23, 1970
10. Incorporation name Department of Education, Diocese of Rochester, Inc.
11. Religious affiliation Roman Catholic
12. Name of person completing this form Sister Rosemary St. Peter
13. Telephone of person completing form 716-288-0580

I, Daniel Brent the undersigned, do hereby make application to the Commissioner of Education for the apportionment provided for in Chapter 138, Laws of 1970 and further certify with reference to the nonpublic school above that:

1. It is a nonprofit school in the State, other than a public school, which provides instruction in accordance with section 3204 of the Education Law.
2. It is providing instruction for all students without regard to race, color, religion, creed or national origin. If the school is a religious or denominational educational institution, students otherwise qualified have the equal opportunity to attend therein without discrimination because of race, color or national origin in accordance with section 313 of the Education Law, and the school has filed with the Commissioner a statement in accordance with section 313 of the Education Law. (NEW APPLICATION ONLY)

*Exhibit 4 Annexed to Intervenor-Defendants'
Answers to Plaintiffs' Interrogatories*

3. It is keeping an accurate record of the attendance of minor children attending such school in the form prescribed by the Commissioner in accordance with section 3211 of the Education Law.
4. It is providing equivalent instruction for all children in the first eight grades in arithmetic, reading, spelling, writing, English language, geography, United States history, civics, hygiene, physical training, New York State history and science, and in grades nine through twelve in English, civics, and American history, in accordance with section 3204 of the Education Law.
5. It is observing the provisions of sections 801-811 and is providing instruction in the special areas required by the Education Law as follows:
 - a) Patriotism and citizenship for all pupils over eight years of age;
 - b) Correct use and display of the flag;
 - c) Physical training for all pupils over eight years of age;
 - d) Physiology and hygiene, including the nature and the effects on the human system of:
 - 1) alcoholic drinks
 - 2) narcotics and habit-forming drugs (applies to courses of study beyond the first eight years);
 - e) The provisions of the Constitution of the United States in the eighth and higher grades;
 - f) Highway safety and traffic regulations;
 - g) Fire prevention and fire drills;
 - h) Observe Conservation Day and provide instruction in this area;
 - i) The humane treatment of animals and birds (in the elementary grades);
6. It is staffed by teachers who are certified by the Commissioner or who meet all the requirements of the school in which they teach for the position in which the teacher serves, as certified by the chief administrative officer of the school.
7. It is complying with section 3002 of the Education Law by having all teachers in the school take the oath of allegiance.
8. It is conducting three civil defense shelter drills during each school year.
9. It has submitted the attendance report AT6N, Secondary School Reports and Basic Educational Data System (BEDS) Report as applicable and as required in accordance with the Commissioner's Regulations and these Guidelines.
10. It has submitted the Pupil Evaluation Program Tests for third and sixth grades. Pupils who normally will be taking Regents or equivalent level courses are considered to be above the minimum competence level of the ninth-grade reading and arithmetic tests and may be excused from taking these tests.
11. It has submitted the Certificate of Religious or Denominational Institution as required by section 313 of the Education Law in those instances wherein the school has elected to request such exceptions.

Affidavit of Chief Administrative Officer

(All nonpublic schools must complete Part I; nonpublic schools which are not incorporated must complete Part II.)

State of New York

County of Monroe) ss
-----)

----- Daniel Brent ----- Chief Administrative

Officer of St. Ambrose School, Rochester, being duly sworn, deposes and says that all statements in this application are true to the best of his knowledge.

Signature -----
Chief Administrative Officer

Title ----- Superintendent of Schools

I, Daniel Brent, the undersigned do certify that the corporate entity to which apportionments shall be made in behalf of St. Ambrose School, Rochester is as follows Department of Education, Diocese of Rochester, Inc. and request that the Commissioner of Education approve such corporate entity for the purposes of Chapter 138 of the Laws of 1970.

Signature ----- Daniel Brent -----
Chief Administrative Officer

Title ----- Superintendent of Schools

Subscribed and sworn to before me this 22nd day of October 1971.

----- Leon G. Hart -----
Notary Public

LEON G. HART
Notary Public in the State of New York
MONROE COUNTY, N. Y.
-on Expires March 30, 19....

INSTRUCTIONS

Each nonpublic school meeting the requirements set forth in the Guidelines and desiring to make application for aid based on attendance should complete two copies of this application in pen or by typewriter. The Guidelines contain detailed instructions for completing this application. One completed copy of this application must be filed with State Aided Programs, Division of Educational Finance by November 1, 1970. One copy should be retained in the school.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
DIVISION OF EDUCATIONAL FINANCE
STATE AIDED PROGRAMS
ALBANY, NEW YORK 12224

APPLICATION FOR NONPUBLIC SCHOOL APPORTIONMENT

1970-71 School Year

Form SA-170

EXHIBIT 5 ANNEXED TO INTERVENOR-
DEFENDANTS' ANSWERS TO
PLAINTIFFS' INTERROGATORIES

1. Name of nonpublic school The Bishop Loughlin Memorial High School
2. Identification # (Leave Blank)
3. Location 357 Clermont Avenue Brooklyn N.Y. 11238 Kings
No. and Street City, Town or Village Zip Code County
4. Mailing address of school No. and Street Post Office N.Y. Zip Code County
5. Name of corporate entity Education Department, Diocese of Brooklyn, Inc.
6. Mailing address of entity 345 Adams Street Brooklyn N.Y. 11201 Kings
No. and Street Post Office Zip Code County
7. Date school registered December 16, 1897, as St. James Academy of Brooklyn
8. Registered name name changed to The Bishop Loughlin Memorial High School
9. Date entity incorporated October 23, 1970
10. Incorporation name Education Department, Diocese of Brooklyn, Inc.
11. Religious affiliation Roman Catholic
12. Name of person completing this form Brother Baldwin Peter, DSC
13. Telephone of person completing form 212-857-2700

I, Franklin Fitzpatrick the undersigned, do hereby make application to the Commissioner of Education for the apportionment provided for in Chapter 138, Laws of 1970 and further certify with reference to the nonpublic school above that:

1. It is a non-profit school in the State, other than a public school, which provides instruction in accordance with section 3204 of the Education Law.
2. It is providing instruction for all students without regard to race, color, religion, creed or national origin. If the school is a religious or denominational educational institution, students otherwise qualified have the equal opportunity to attend therein without discrimination because of race, color or national origin in accordance with section 313 of the Education Law, and the school has filed with the Commissioner a statement in accordance with section 313 of the Education Law.

EXHIBIT 5

3. It is keeping an accurate record of the attendance of minor children attending such school in the form prescribed by the Commissioner in accordance with section 3211 of the Education Law.
4. It is providing equivalent instruction for all children in the first eight grades in arithmetic, reading, spelling, writing, English language, geography, United States history, civics, hygiene, physical training, New York State history and science, and in grades nine through twelve in English, civics, and American history, in accordance with section 3204 of the Education Law.
5. It is observing the provisions of sections 801-811 and is providing instruction in the special areas required by the Education Law as follows:
 - a) Patriotism and citizenship for all pupils over eight years of age
 - b) Correct use and display of the flag
 - c) Physical training for all pupils over eight years of age
 - d) Physiology and hygiene, including the nature and the effects on the human system of
 - 1) alcoholic drinks
 - 2) narcotics and habit-forming drugs (applies to courses of study beyond the first eight years)
 - e) The provisions of the Constitution of the United States in the eighth and higher grades
 - f) Highway safety and traffic regulations
 - g) Fire prevention and fire drills
 - h) Observe Conservation Day and provide instruction in this area
 - i) The humane treatment of animals and birds (in the elementary grades)
6. It is staffed by teachers who are certified by the Commissioner or who meet all the requirements of the school in which they teach for the position in which the teacher serves, as certified by the chief administrative officer of the school.
7. It is complying with section 3002 of the Education Law by having all teachers in the school take the oath of allegiance.
8. It is conducting three civil defense shelter drills during each school year.
9. It has submitted the Secondary School Reports and Basic Educational Data System (BEDS) Report as applicable and as required in accordance with the Commissioner's Regulations and these Guidelines.
10. It has submitted the Certificate of Religious or Denominational Institution as required by section 313 of the Education Law in those instances wherein the school has elected to request such exceptions.

Affidavit of Chief Administrative Officer

(All nonpublic schools must complete Part I; nonpublic schools which are not incorporated must complete Part II.)

PART I

State of New York

County of Kings) ss
(-----)

-----Franklin Fitzpatrick-----Chief Administrative

Officer of The Bishop Loughlin Memorial H.S., being duly sworn, deposes and says that all statements in this application are true to the best of his knowledge.

Signature *Franklin Fitzpatrick*
Chief Administrative Officer

Title Superintendent of Schools-----

PART II

I,-----Franklin Fitzpatrick-----, the undersigned do

certify that the corporate entity to which apportionments shall be made in behalf of The Bishop Loughlin Memorial H.S., school is

as follows-----Education Dept. of Diocese of Brooklyn, Inc.-----

and request that the Commissioner of Education approve such corporate entity for the purposes of Chapter 138 of the Laws of 1970.

Signature *Franklin Fitzpatrick*
Chief Administrative Officer

Title Superintendent of Schools-----

Subscribed and sworn to before me this 23rd-----

day of October-----1970.

Mary L. Wolfe
Notary Public, State of New York
No. 24-9725150
Qualified in Kings County
Commission Expires March 30, 1971

Mary L. Wolfe
Notary Public

INSTRUCTIONS

Each nonpublic school meeting the requirements set forth in the Guidelines and desiring to make application for aid based on attendance should complete two copies of this application in pen or by typewriter. The Guidelines contain detailed instructions for completing this application. One completed copy of this application must be filed with the Office for Nonpublic School Services by October 1. One copy should be retained by the school.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE FOR NONPUBLIC SCHOOL SERVICES
WASHINGTON AVENUE
ALBANY, NEW YORK 12224

MANDATED SERVICES
APPLICATION FOR NONPUBLIC SCHOOL APPORTIONMENT
CHAPTER 138 OF THE LAWS OF 1970

1971-72 School Year Form SA-170

EXHIBIT 6 ANNEXED TO INTERVENOR
DEFENDANTS' ANSWERS TO
PLAINTIFFS' INTERROGATORIES

1. Name of nonpublic school Bishop Loughlin High School
2. Identification # 30-00-00-12-6075
3. Location 357 Clermont Ave., Brooklyn, New York N.Y. 11238 Kings
No. and Street City, Town or Village Zip Code County
4. Mailing address of school 357 Clermont Ave., Adelphi N.Y. 11238 Kings
No. and Street Post Office Zip Code County
5. Name of corporate entity Department of Education, Diocese of Brooklyn, Inc.
6. Mailing address of entity 345 Adams St., Brooklyn N.Y. 11201 Kings
No. and Street Post Office Zip Code County
7. Date school registered October 12, 1933
8. Registered name The Bishop Loughlin Memorial High School
9. Date entity incorporated October 1970
10. Incorporation name Department of Education, Diocese of Brooklyn, Inc.
11. Religious affiliation Roman Catholic
12. Name of person completing this form Brother Denis Coakley, FSC
13. Telephone of person completing form (212) 857-2700

I, Brother Denis Coakley, FSC, the undersigned, do hereby make application to the Commissioner of Education for the apportionment provided for in Chapter 138, Laws of 1970 and further certify with reference to the nonpublic school above that:

1. It is a nonprofit school in the State, other than a public school, which provides instruction in accordance with section 3204 of the Education Law.
2. It is providing instruction for all students without regard to race, color, religion, creed or national origin. If the school is a religious or denominational educational institution, students otherwise qualified have the equal opportunity to attend therein without discrimination because of race, color or national origin in accordance with section 313 of the Education Law, and the school has filed with the Commissioner a statement in accordance with section 313 of the Education Law. (NEW APPLICATION ONLY)

EXHIBIT 6

3. It is keeping an accurate record of the attendance of minor children attending such school in the form prescribed by the Commissioner in accordance with section 3211 of the Education Law.
4. It is providing equivalent instruction for all children in the first eight grades in arithmetic, reading, spelling, writing, English language, geography, United States history, civics, hygiene, physical training, New York State history and science, and in grades nine through twelve in English, civics, and American history, in accordance with section 3204 of the Education Law.
5. It is observing the provisions of sections 801-811 and is providing instruction in the special areas required by the Education Law as follows:
 - a) Patriotism and citizenship for all pupils over eight years of age;
 - b) Correct use and display of the flag;
 - c) Physical training for all pupils over eight years of age;
 - d) Physiology and hygiene, including the nature and the effects on the human system of:
 - 1) alcoholic drinks
 - 2) narcotics and habit-forming drugs (applies to courses of study beyond the first eight years);
 - e) The provisions of the Constitution of the United States in the eighth and higher grades;
 - f) Highway safety and traffic regulations;
 - g) Fire prevention and fire drills;
 - h) Observe Conservation Day and provide instruction in this area;
 - i) The humane treatment of animals and birds (in the elementary grades);
6. It is staffed by teachers who are certified by the Commissioner or who meet all the requirements of the school in which they teach for the position in which the teacher serves, as certified by the chief administrative officer of the school.
7. It is complying with section 3002 of the Education Law by having all teachers in the school take the oath of allegiance.
8. It is conducting three civil defense shelter drills during each school year.
9. It has submitted the attendance report AT6N, Secondary School Reports and Basic Educational Data System (BEDS) Report as applicable and as required in accordance with the Commissioner's Regulations and these Guidelines.
10. It has submitted the Pupil Evaluation Program Tests for third and sixth grades. Pupils who normally will be taking Regents or equivalent level courses are considered to be above the minimum competence level of the ninth-grade reading and arithmetic tests and may be excused from taking these tests.
11. It has submitted the Certificate of Religious or Denominational Institution as required by section 313 of the Education Law in those instances wherein the school has elected to request such exceptions.

Affidavit of Chief Administrative Officer

(All nonpublic schools must complete Part I; nonpublic schools which are not incorporated must complete Part II.)

PART I

State of New York

County of Kings ss
-----)

Brother Denis Coakley, FSC ----- Chief Administrative

Officer of Bishop Loughlin High School -----, being duly sworn,
deposes and says that all statements in this application are true
to the best of his knowledge.

Signature *Brother Denis Coakley*
Chief Administrative Officer

Title ----- Principal -----

PART II

I, Franklin E. Fitzpatrick -----, the undersigned do
certify that the corporate entity to which apportionments shall be
made in behalf of Bishop Loughlin High School ----- school is
as follows Department of Education, Diocese of Brooklyn, Inc.

and request that the Commissioner of Education approve such corporate
entity for the purposes of Chapter 188 of the Laws of 1970.

Signature *Franklin E. Fitzpatrick*
Chief Administrative Officer

Title ----- Superintendent -----

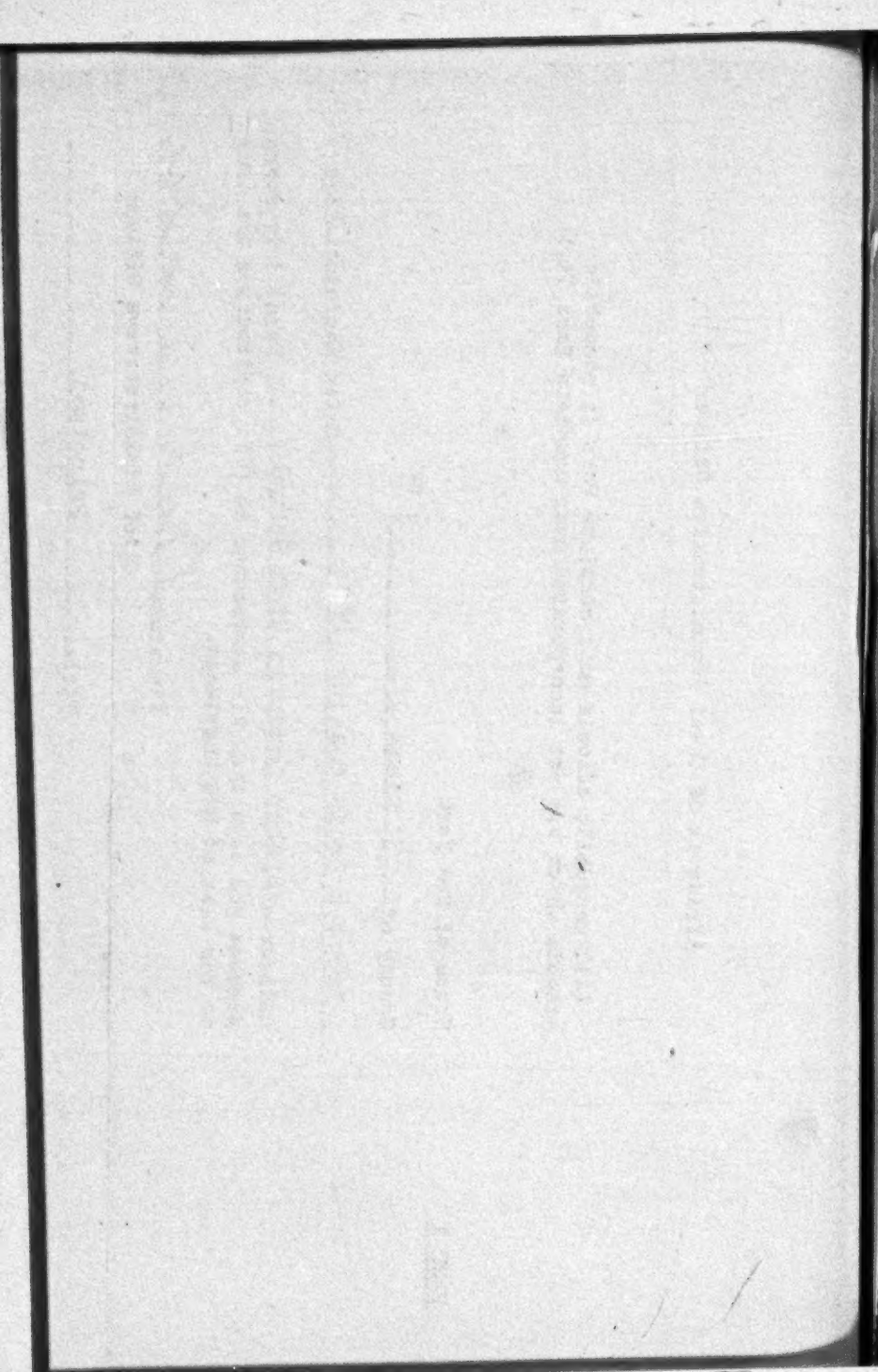
Subscribed and sworn to before me this 21st -----

day of October ----- 1971.

Mary L. Wolfe
Notary Public, State of New York
No. 24-9725150
Qualified in Kings County
Commission Expires March 30, 1972

Notary Public

Mary L. Wolfe



**Defendant Nyquist's Answers to Plaintiffs'
Interrogatories**

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

STATE OF NEW YORK,
COUNTY OF ALBANY, ss.:

EWALD B. NYQUIST, being duly sworn deposes and says:

A. That he is the Commissioner of Education of the State of New York, President of the University of the State of New York and Chief Executive Officer of the Board of Regents of the University of the State of New York.

B. That this affidavit is made in answer to interrogatories propounded by plaintiffs in the above entitled cause pursuant to Rule 33 of the Federal Rules of Civil Procedure, dated February 3, 1972.

C. That the following numbered paragraphs of this affidavit refer to the corresponding numbered paragraphs of the said interrogatories, and are, respectively, in answer to each respective numbered paragraph thereof.

1. On information and belief:

That prior to the enactment of Chapter 138 of the Laws of 1970, a conference was held in which representatives of the Office of the Counsel to the Governor, of the Division of the

Defendant Nyquist's Answers to Plaintiffs' Interrogatories

Budget in the Executive Department and of the State Education Department participated; that at said conference the representatives of the State Education Department were asked whether the dollar amount in question was reasonable and that the answer was that to the best of their judgment the amount was reasonable; that no record of the said conference was made.

2. On information and belief:

That the States of the Union have the right to require certain minimum standards of educational quality to be maintained by nonpublic schools, in accordance with the decision of the United States Supreme Court in the *Pierce* cases (268 U.S. 510) and that New York State has set such standards through the requirements of various sections of the Education Law, such as the provisions of Article 17 thereof which require certain subjects to be taught in nonpublic as well as public schools and most notably through the provisions of sections 3204 and 3210 thereof, which require that the educational offerings of nonpublic schools must be "at least substantially equivalent" to that of the public schools of the district of location of the nonpublic school and of the district of residence of the student; that, furthermore, subdivision 2 of section 305 of the Education Law, which provides for the general powers and duties of the Commissioner of Education, states that he shall have general supervision over all schools and institutions which are subject to the provisions of the Education Law or any other statute relating to education and that he must cause all these schools to be examined and inspected; that for the purpose of controlling the educational quality of the

Defendant Nyquist's Answers to Plaintiffs' Interrogatories

State education system, various measuring devices are used by the Education Department, such as the Regents examinations, the so called "PEP Tests" (Pupil Evaluation Program) in grades 3, 6 and 9, as well as other testing devices which require the results of such tests to be reported to the Education Department.

That, in addition, various reports are required from non-public as well as public schools, all of which procedures and devices having the purpose of making sure that the minimum State educational standards are maintained throughout all the schools in the State. That, in specific answer to this question of interrogatories, all the services rendered by nonpublic schools in connection with the maintenance of said minimum State standards are "provided for or required by law or regulation".

3. On information and belief, that the said chapter 138 provides for reimbursement for all the various testing, reporting and evaluation programs referred to in paragraph 2 above.

4. That the qualifying schools are not required to submit reports accounting for the moneys received and how they are expended.

5. That this question cannot be answered as posed, since we are here dealing with reimbursement for moneys already expended for the purposes set forth in said chapter 138; that, more particularly, the nonpublic schools' moneys, necessarily, have to be expended, in advance of reimbursement, for 100% of the services "provided for or required by law or regulation".

Defendant Nyquist's Answers to Plaintiffs' Interrogatories

6. That cost analyses and other studies have been made by the department and copies thereof are submitted herewith and made a part hereof, as Exhibits d, f and g.
7. That nonpublic schools are not disqualified from receiving apportionments made under said chapter 138 for any of the reasons set forth in this paragraph of the interrogatories.
8. That the affiant is responsible for the administration of said chapter 138 and that he is assisted in this connection by Dr. Thomas D. Sheldon, Deputy Commissioner for Elementary, Secondary and Continuing Education and by Dr. Thomas W. Heath, Coordinator for Nonpublic School Services.
9. That a publication entitled "LAW REGULATIONS AND GUIDELINES Apportionment to Nonpublic Schools" was issued by the Department in August of 1970 and that a copy thereof is submitted herewith and made a part hereof, as Exhibit e.
10. That schools seeking funds under said chapter 138 are required to submit an application on Form SA-170, together with a worksheet, Form SA-171 and that copies thereof are submitted herewith and made a part hereof as Exhibits h(1) and h(2).
11. That schools receiving funds under said chapter 138 are not required to submit periodic or other reports on the expenditure of funds received thereunder.

Defendant Nyquist's Answers to Plaintiffs' Interrogatories

D. That submitted herewith, and made a part hereof are the following documents and materials, as Exhibits a through i:

a. Regents Statement on State Aid, February 27, 1970.

b. Release from Board of Regents dated April 17, 1970.

c. "Legal Information Concerning School Attendance", November 1969.

d. "Cost analysis data" (Confidential papers re non-public schools mandated services), March 25, 1971.

e. "LAW REGULATIONS AND GUIDELINES Apportionment to Nonpublic Schools", August 1970.

f. "Background Information on the Nonpublic School Bill", April 16, 1970, together with BEDS for nonpublic schools, Fall 1969 and "Secondary School Report" for "Private Schools" 1969-70.

g. Materials submitted to the Regents by Dr. Sheldon, August 1971.

h(1). SA-170.

h(2). SA-171.

i. Education Department staff study "Financial Support of Nonpublic Schools".

/s/ EWALD B. NYQUIST

EWALD B. NYQUIST

[Jurat omitted in printing]

[Exhibits a through i to these Answers to
Interrogatories are in the separate, bound
Supplement to Appendix]

Stipulation re Answers to Interrogatories

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

70 Civ. 3251

COMMITTEE FOR PUBLIC EDUCATION AND RELIGIOUS LIBERTY,
 BERNARD BACKER, ALGERNON D. BLACK, THEODORE
 BROOKS, HERSCHEL CHANIN, NAOMI COWAN, REBECCA
 GOLDBLUM, BENJAMIN HAIBLUM, BLANCHE LEWIS, ED-
 WARD D. MOLDOVER, ARYEH NEIER, DAVID SEELEY, ALBERT
 SHANKER and HOWARD M. SQUADRON,

Plaintiffs,

—against—

NELSON A. ROCKEFELLER, as Governor of the State of New
 York, ARTHUR LEVITT, as Comptroller of the State of
 New York, and EWALD B. NYQUIST, as Commissioner of
 Education of the State of New York,

Defendants,

—and—

CATHEDRAL ACADEMY, ST. AMBROSE SCHOOL, BISHOP LOUGH-
 LIN MEMORIAL HIGH SCHOOL, BAIS YAAKOV ACADEMY FOR
 GIRLS and YESHIVAH RAMBAM,

Intervenor-Defendants.

IT IS HEREBY STIPULATED that the answers filed by defen-
 dant Ewald B. Nyquist, as Commissioner of Education,
 and by the intervenor-defendants Cathedral Academy, St.
 Ambrose School and Bishop Loughlin Memorial High
 School, to the interrogatories propounded to them by the
 plaintiffs, and the exhibits thereto, may be taken as ac-
 cepted facts for the purposes of this case.

Stipulation re Answer to Interrogatories

Dated: New York, N.Y.

April 4, 1972

/s/ LEO PFEFFER

Leo Pfeffer

Attorney for Plaintiffs

Louis J. Lefkowitz

*Attorney General of the
State of New York*

By JEAN M. COON /s/
Asst. Sol. Gen.

*Attorney for defendants Arthur
Levitt, as Comptroller of the State of
New York and Ewald B. Nyquist, as
Commissioner of Education of the
State of New York*

Davis Polk & Wardwell

By PORTER R. CHANDLER /s/
*Attorneys for Intervenor-Defendants
Cathedral Academy, St. Ambrose
School and Bishop Loughlin Memo-
rial High School*

Julius Berman and Marcel Weber

By JULIUS BERMAN /s/
*Attorneys for Intervenor-Defendants
Bais Yaakov Academy for Girls and
Yeshivah Rambam*

**Opinions of Lasker, J. and Palmieri, J.
dated April 27, 1972**

[printed in full in Appendixes to Jurisdictional Statements; officially reported at 342 F. Supp. 439 and 342 F. Supp. 445, respectively]

Order and Judgment dated June 1, 1972

[printed in full in Appendixes to
Jurisdictional Statements]

**Order to Show Cause and Affidavit in Support
of Application for Leave to Intervene**

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

Upon the annexed motion of Earl W. Brydges and the affidavit of John F. Haggerty and Louis P. Contiguglia, sworn to the 15th day of June, 1972 and the proposed answer annexed thereto and upon all prior proceedings heretofore had herein, it is hereby:

ORDERED, that the plaintiffs and the defendants herein show cause before this Court, at Room 905 of the United States Court House, Foley Square, New York, New York at 10 o'clock in the forenoon on the 20th day of June, why an order pursuant to Rule 24 should not issue allowing Senator Earl W. Brydges, President Pro Tem and Majority Leader of the New York State Senate, to intervene in this case as a party defendant in his representative capacity and that he have all the rights and standing of a party on the grounds that in his respective capacity and on behalf of the New York State Senate he has a direct, vital and paramount interest in the subject matter of this action that in his representative capacity as party defendant the disposition of this action may as a practical matter impair or impede his ability to protect the interests of the Senate of the State of New York and on the ground that the applicant's interests are not presently and ade-

Order to Show Cause

quately represented herein in view of the fact that only the Legislature can develop the issues which must be inherent in any determination of this Court; and it is further

ORDERED that personal service of a copy of this order and the papers upon which it was granted, or service by delivery to a mail box by the close of business on the 16th day of June, 1972, upon the attorneys appearing for each of the named parties herein, shall constitute due and sufficient service of this order.

Dated: New York, New York
June 16, 1972

/s/ MORRIS E. LASKER

To:

PORTER R. CHANDLER, Esq.
One Chase Manhattan Plaza
New York, New York 10005

LEO PFEFFER, Esq.
Attorney for Plaintiffs
15 East 84th Street
New York, New York 10028

HONORABLE LOUIS J. LEFKOWITZ
Attorney General of the State of New York
Mrs. Jean M. Coon
Assistant Solicitor General

Affidavit in Support of Application for Leave to Intervene

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

[TITLE OMITTED IN PRINTING]

STATE OF NEW YORK,
COUNTY OF ALBANY, ss.:

JOHN F. HAGGERTY and LOUIS P. CONTIGUGLIA, being individually duly sworn, depose and say:

1) Each is an attorney licensed to practice law in the State of New York, and each is a Counsel to the Senate of the State of New York and to Senator Earl W. Brydges, the Majority Leader and President Pro Tem of the New York State Senate, and that each deponent makes this affidavit in support of the order to show cause why, in his representative capacities for and on behalf of the Senate of the State of New York and as Majority Leader and President Pro Tem of the New York State Senate, Senator Earl W. Brydges should not be allowed to intervene in this case as party defendant.

2) A motion of this nature may properly be addressed to and decided by any one judge of a three-judge court (28 USCA Section 2284(5)).

Affidavit in Support of Application for Leave to Intervene

3) Senator Earl W. Brydges is also a citizen of the United States of America and a resident of the State of New York. As a citizen, a State legislator, Majority Leader of the State Senate and President Pro Tem of one of the two legislative bodies of the New York State Legislature, Senator Earl W. Brydges has a paramount interest in common with the other members of the New York State Senate in upholding the constitutionality of Chapter 138 of the 1970 Laws of New York. The purpose for the intervention of Senator Earl W. Brydges in this action is to protect the interest of the New York State Legislature in the exercise of its constitutional right to a free and open debate of any subject or issue, no matter how politically divisive it may be on segments of our society. The exercise of this right has been curtailed by recent Federal court decisions involving issues similar to those in this law suit. Those decisions have expressly, and by innuendo, curtailed the rights of State legislative bodies to freely and openly debate issues which are "potentially divisive." The basis of these Federal court decisions is the opinion of the United States Supreme Court in *Lemon v. Kurtzman*, 403 U.S. 602 (1971). In that case the Court observed that:

"Ordinarily, political debate and division, however vigorous or even partisan, are normal manifestation of our democratic system of government, but political division along religious lines was one of the evils against which the First Amendment was intended to protect."

Affidavit in Support of Application for Leave to Intervene

"The potential divisiveness of such conflict is a threat to the normal political process."

The Supreme Court issued this pronouncement in declaring unconstitutional a Pennsylvania law providing public funds for teaching non-religious courses in private schools. In so ruling the Court acknowledged its chief concern was not whether the law aided religion, but that it involved "excessive entanglement" of religion in government. This entanglement, the Court concluded, violated the First Amendment provisions of separation of church and state. The Court implied that this excessive entanglement exists in the normal political activity of our legislative bodies when considering issues which peripherally touch upon a religious question. The Supreme Court's reaction in *Lemon v. Kurtzman* to entanglement of religion and government cannot be taken as a "passing fancy." In recent months other Federal courts have relied upon the pronouncement in the *Lemon* case to curtail efforts by various legislative bodies throughout the country to seek solutions to the fiscal plight of nonpublic schools.

For example, in March of this year a three-panel Federal court declared unconstitutional a Vermont law which partially reimbursed public school teachers for teaching non-religious courses in parochial schools. (*Americans United for Separation of Church and State v. Oakey*, 40 L.W. 2597 (1972)). The court noted:

"Any such involvement carries with it the explosive potential for citizen friction and political sub-division along religious lines."

Affidavit in Support of Application for Leave to Intervene

Similar restrictions on the freedom of state legislatures to debate issues involving religious overtones was evidenced in the month of March of this year when Federal courts in Pennsylvania and Ohio struck down laws reimbursing parents for children's tuition payments in private schools. (*Wolman v. Essex*, USDC, SE Dist., Ohio (1972)). Particularly significant is the decision of the Federal court in Ohio, which states, in part, that the plan

"... contains the seeds for increased political involvement along religious lines at every level of government. ... To uphold this statute would be to introduce the religious issue to the very center of state politics. ... the political issue will be an expansive one ... with the result that the issue will be joined along sharply drawn religious lines."

The three-panel Federal district court in its recent March decision in this case has likewise implied that restrictions are imposed on the freedom of the state legislature to debate legislation touching on religious issues. The majority decision noted that

"... it is reasonable to assume that state assistance will result in the aggravation of divisive political activity on the part of supporters and opponents."

The pronouncement of the Supreme Court in the *Lemon* case, as applied in this line of recent Federal cases, has been resorted to with devastating consequences. Underway is a dangerous trend to restrict the freedom historically

Affidavit in Support of Application for Leave to Intervene

enjoyed by the New York State Legislature and other legislative bodies to respond to diverse problems, which by necessity demands free and open discussion of every conceivable issue. As noted by Judge Edmund Palmieri in his dissent in this action,

“Government and political activity should play a part in searching for ways . . . that will preserve, and indeed promote, the diversity of individual beliefs—political, social and religious—that distinguish us so plainly from certain uniform, unified and unigoverned societies elsewhere in the world.”

In the event that this concept curtailing legislative debate is continued in this action, no longer will legislative bodies operate as a forum for free and open discussion. Indeed there is a danger that the resolution of peculiarly volatile issues will no longer continue within the framework of our democratic process. It is submitted that the unfortunate trend that may develop from these recent Federal court decisions is to encourage elements of our society to seek solutions to our social, political and economic problems in a manner that is “extra-legal.”

4) On information and belief, the interests of the New York State Legislature may not be adequately represented by the named government-party defendants in this action. The primary concern of the named party defendants is to uphold the payments authorized by Chapter 138 of the 1970 Laws of New York. The interest of Senator Earl W. Brydges, as intervenor in his representative capacity as

Affidavit in Support of Application for Leave to Intervene

leader of one of the two major Houses of the New York State Legislature, is much broader.

The Courts of the United States have attempted to exercise a jurisdiction so large and so great in terms of breadth and width, that sometimes those who serve in the States of the Union lose track of the fact that the Federal Government is not the paramount body in the United States of America. In the Federal Government and its Judiciary does not repose the sovereignty, except to the extent that the States have given it to them. The sovereignty of the individual and of the States under the reserved powers concept (U.S. Constitution Articles IX and X) reposes not there but with the States, and the fact that the States do have this residuum of sovereignty makes theirs the responsibility of preserving that which remains.

It is beyond the authority of the courts of the United States to dictate to the sovereign legislatures of the several states the parameters of its debate. Clearly, the states have allowed and authorized the courts of the United States to pass upon the constitutional issues of our final product, the statutes which we pass. But no where can be found the authority for the courts to dictate that which would be the subject of colloquy.

Only the Legislature can address itself to this question and it is beyond the possibility or reach of their respective offices for the aforementioned defendants in this action to give any consideration or representation on this issue. Your applicant in his representative capacity as President Pro Tem of the New York State Senate and as its Majority

Affidavit in Support of Application for Leave to Intervene

Leader, empowered by its own rules to control the proceedings and debate within the body, is the only one so situated as to fairly and adequately come to grips with this question.

5) It is indeed questionable whether the named government defendants are truly the real parties in interest in this action. Under the Constitution of the State of New York, it would seem clear that it is the Legislature, and the Legislature only, that is so situated as to claim the paramount interest relating to the property or transaction which is the subject of this law suit. It is peculiarly the Legislature's interest that the disposition of this action may as a practical matter impair or impede.

The first-named defendant, ARTHUR LEVITT, as Comptroller of the State of New York, is charged simply with the responsibility of auditing claims and vouchers filed with or against New York State. His participation in this proceeding is simply in the capacity of a "paymaster" without responsibility for the formulation of educational policies within the State of New York or the education of the children of the State of New York.

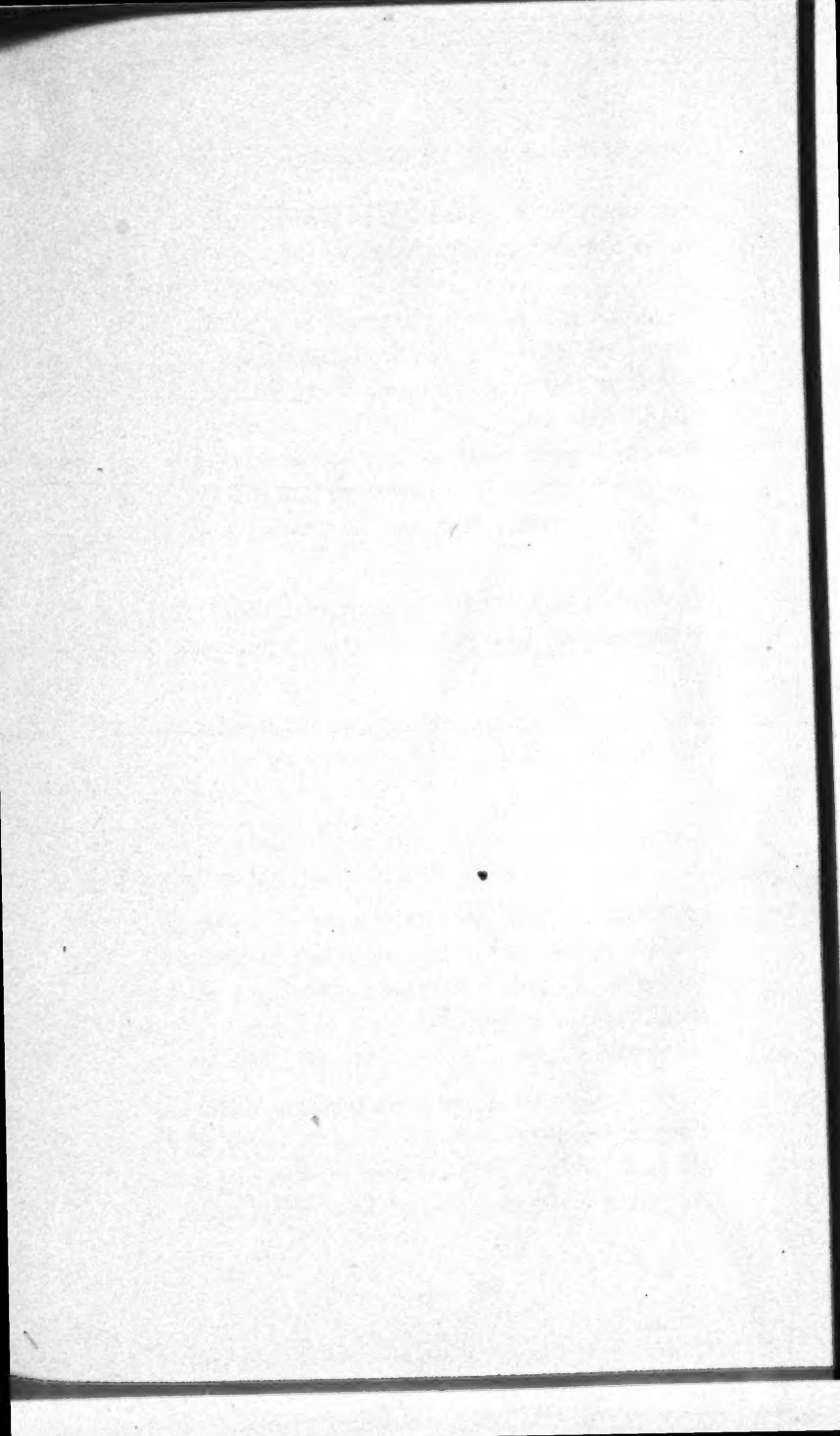
The second-named defendant, EWALD B. NYQUIST, is the Commissioner of Education of the State of New York. Pursuant to Article V Section 4 of the New York State Constitution, he is appointed by the Board of Regents of the State of New York. The powers and authority of the Board of Regents of the State of New York, pursuant to the Constitution of the State of New York, Article XI Section 2, may be increased, modified or diminished by

Affidavit in Support of Application for Leave to Intervene

the Legislature. Section 1 of Article XI of the New York State Constitution charges the Legislature of the State of New York with the maintenance and support of a system of free common schools wherein all the children of this State may be educated. It would appear then to be beyond question that the ultimate responsibility both for determining educational policy and for providing for the education of the children of the State of New York is with the Legislature and not the Commissioner of Education of the State of New York.

It is claimed in this action that the State statute under attack involves the expenditure of public funds in support of religious purposes. The determination of how public funds should be expended is a coordinate responsibility of the Legislature and the Executive Branch of government and does not in any way involve the aforementioned defendants herein. It should be noted that under the Constitution of the State of New York, the Legislature has even the ultimate say as to how public monies should be expended, in that the Governor submits a proposed budget to the Legislature which the Legislature may or may not adopt in whole or in part and a rejection of any of the parts by the Legislature is final on the question.

It would be singularly the responsibility of the Legislature of the State of New York to impose the necessary taxes to raise revenues to support the educational burden that would be created by a sudden, precipitous and catastrophic closing of the nonpublic schools of this State which presently educate approximately 800,000 children or 20% of



Affidavit in Support of Application for Leave to Intervene

all children attending schools in our State. Such fiscal and political consequences can be fully appreciated and evaluated only by the Legislature.

Thus, it is submitted that the entity that has the foremost interests in the subject matter of this action is the Legislature of the State of New York and it is in his capacity as a primary representative of that entity that your applicant seeks to intervene in this action. Only your applicant can adequately develop and represent to this court the three paramount issues inherent in any determination of this action:

(i) The reserved sovereign power of the Legislature of the State of New York to uninhibited and untrammelled debate.

(ii) The responsibility for the development of educational policy and the education of the children within the State of New York.

(iii) The responsibility of raising taxes to support a system of education in the State of New York.

6) Your deponents in requesting this court to allow intervention on behalf of the applicant in this action assures this court that the applicant or anyone acting on his behalf will not delay or prejudice the adjudication of the rights of the original parties. We are ready to proceed forthwith.

7) The reason this application is made by order to show cause and not by notice of motion is that a request is made that this matter be made returnable on Tuesday, June 20, 1972. Upon information and belief your deponents are

Affidavit in Support of Application for Leave to Intervene

advised that another proceeding in this action is returnable in this court on that date and it is requested that this application for intervention be made returnable at that time so that it may be disposed of by this court on that date and that your deponents on behalf of Senator Earl W. Brydges be allowed to participate in those other proceedings in this action on that date.

8) In accordance with Rule 24(c) of the Federal Rules of Civil Procedure, annexed hereto as Exhibit A, is a proposed pleading setting forth the defenses for which intervention is sought.

9) No previous application has been made to any court or any judge for the relief requested herein.

WHEREFORE, it is requested that Senator Earl W. Brydges as Majority Leader and President Pro Tem of the New York State Senate be allowed to intervene in this case as a party defendant, or in such representative capacity, and on behalf of other senators in the New York State Senate similarly situated, that he have all the rights and standing of a party, and for such other and further relief as to this Court may seem just and proper.

/s/ JOHN F. HAGGERTY
JOHN F. HAGGERTY

/s/ LOUIS P. CONTIGUGLIA
LOUIS P. CONTIGUGLIA

[Jurat omitted in printing]

Exhibit A Annexed to Motion to Intervene

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

70 Civ. 3251

COMMITTEE FOR PUBLIC EDUCATION AND RELIGIOUS LIBERTY,
BERNARD BACKER, ALGERNON D. BLACK, THEODORE BROOKS,
HERSCHEL CHANIN, NAOMI COWAN, REBECCA GOLDBLUM,
BENJAMIN HAIBLUM, BLANCHE LEWIS, EDWARD D. MOLD-
OVER, ARYEH NEIER, DAVID SEELEY, ALBERT SHANKER and
HOWARD M. SQUADRON,

Plaintiffs,

—against—

NELSON A. ROCKEFELLER, as Governor of the State of New
York, ARTHUR LEVITT, as Comptroller of the State of
New York, and EWALD B. NYQUIST, as Commissioner of
Education of the State of New York,

Defendants,

and

CATHEDRAL ACADEMY, ST. AMBROSE SCHOOL, BISHOP LOUGH-
LIN MEMORIAL HIGH SCHOOL, BAIS YAAKOV ACADEMY FOR
GIRLS and YESHIVAH RAMBAM,

Intervenor-defendants,

and

EARL W. BRYDGES, as Majority Leader and President
Pro Temp of the New York State Senate,

Intervenor-defendant.

Exhibit A Annexed to Motion to Intervene

ANSWER OF INTERVENOR-DEFENDANT

Intervenor-Defendant Earl W. Brydges, residing at Niagara Falls, New York, as Majority Leader and President Pro Tem of the New York State Senate, by his attorneys John F. Haggerty and Louis P. Contiguglia, in his representative capacity for and on behalf of the Senate of the State of New York and as Majority Leader and President Pro Tem of the New York State Senate, for his answer to the complaint herein:

1. Denies the allegations of paragraphs 1 and 2 except admits that this action purports to be brought as described therein.

2. Is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 3, 4 and 5.

3. Admits the allegations contained in paragraph 6 of the complaint.

4. Answering paragraph 7, admits that on April 18, 1970 defendant Nelson A. Rockefeller signed into law Chapter 138 of the Laws of 1970, effective September 1, 1970 (not July 1 as alleged), entitled "An Act to provide for the apportionment of state monies to certain non-public schools in connection with inspection and examination, and making an appropriation therefor" and respectfully refers to the said statute for the provisions thereof.

Exhibit A Annexed to Motion to Intervene

5. Is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 except denies that "unless enjoined by this court, [defendants] will . . . make such payment . . . in violation of the Constitution of the United States and the Constitution of the State of New York."

6. Admits the allegations of paragraphs 9 and 10.

7. Denies each and every allegation contained in paragraph 11 except is without knowledge or information sufficient to form a belief as to the truth of the allegations concerning the religious consciences of the plaintiffs.

8. Denies each and every allegation contained in paragraphs 12, 13, 14, 15 and 16.

FIRST DEFENSE

9. The complaint fails to set forth a claim against defendants upon which relief can be granted.

SECOND DEFENSE

10. Plaintiffs lack capacity to bring this action.

THIRD DEFENSE

11. This court lacks jurisdiction over the subject matter of this action in that the amount in controversy is less than \$10,000.00, exclusive of interest and costs.

*Exhibit A Annexed to Motion to Intervene***FOURTH DEFENSE**

12. This action seeks, among other things, to invalidate Chapter 138 of the Laws of 1970, to the extent that it provides for or permits payment to religiously-affiliated schools, on the ground that the statute violates Article XI, Section 3 of the New York Constitution.

13. Said claim does not arise under the Constitution or laws of the United States and is purely a matter governed by the laws of the State of New York.

14. In the event that plaintiffs' contention under Article XI, Section 3 is sustained, no issue will or could arise under the Constitution or laws of the United States.

15. The Courts of the State of New York have not passed on the validity under the New York Constitution of Chapter 138 of the Laws of 1970, to the extent that it provides for or permits payments to religiously-affiliated schools.

16. By reason thereof, the complaint herein should be dismissed without prejudice so that the courts of the State of New York may pass upon the validity of said statute under the New York Constitution.

FIFTH DEFENSE

17. The federal government and its judiciary lack jurisdiction to proscribe the parameters of debate of the Legislature of the State of New York.

U

Exhibit A Annexed to Motion to Intervene

SIXTH DEFENSE

18. The expressed purpose of Chapter 138 of the New York Laws of 1970 is to compensate nonpublic schools, without regard to their status as sectarian or nonsectarian schools, for expenses incurred by those schools in making reports to the State, keeping records required by the State, and in administering tests required by State law and regulation. State law requires that students enrolled in nonpublic schools comply with compulsory attendance requirements identical to those of the public schools, which entails the keeping of detailed attendance records by the nonpublic schools and reports to the State. State law requires that certain courses be taught in all schools, public and nonpublic alike, and that teachers in nonpublic schools have similar educational qualifications to those teaching in public schools. These requirements also entail the keeping of records and reports to the State Department of Education. Certain tests of academic achievement must be administered to students in nonpublic and public schools alike, and specific health records must be maintained.

19. All of these records and test requirements involve additional expense to the nonpublic schools for which they are not compensated, although the public schools are partially compensated therefor in the form of state-aid.

20. The provisions of Chapter 138 constitute a partial reimbursement for the costs imposed on the nonpublic schools by State requirements and do not constitute a prohibited involvement with religion.

Exhibit A Annexed to Motion to Intervene

21. Chapter 138 has a secular legislative purpose, the insuring that nonpublic schools provide adequate education to children enrolled therein, and a primary effect which neither advances nor inhibits religion, since it provides only reimbursement for State imposed costs unrelated to any religious educational activity of the schools.

WHEREFORE, defendant Earl W. Brydges, in his representative capacity as Majority Leader and President Pro Tem of the Senate of the State of New York, demands a judgment and decree of this Court dismissing the complaint herein and declaring Chapter 138 of the New York Laws of 1970 to be constitutional.

Dated: Albany, New York
June 15, 1972

/s/ JOHN F. HAGGERTY
John F. Haggerty

/s/ LOUIS P. CONTIGUGLIA
Louis P. Contiguglia
*Attorneys for Intervenor-
Defendant*
Earl W. Brydges
The Capitol
Senate Chambers
Albany, New York

Order Granting Leave to Intervene
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COMMITTEE FOR PUBLIC EDUCATION AND RELIGIOUS LIBERTY,
 BERNARD BACKER, ALGERNON D. BLACK, THEODORE
 BROOKS, HERSCHEL CHANIN, NAOMI COWEN, REBECCA
 GOLDBLUM, BENJAMIN HAIBLUM, BLANCHE LEWIS, ED-
 WARD D. MOLDOVER, ARYEH NEIER, DAVID SEELEY, ALBERT
 SHANKER and HOWARD M. SQUADRON,

Plaintiffs,

—against—

NELSON A. ROCKEFELLER, as Governor of the State of New
 York, ARTHUR LEVITT, as Comptroller of the State of
 New York, and EWALD B. NYQUIST, as Commissioner of
 Education of the State of New York,

Defendants,

and

CATHEDRAL ACADEMY, ST. AMBROSE SCHOOL, BISHOP LOUGH-
 LIN MEMORIAL HIGH SCHOOL, BAIS YAAKOV ACADEMY FOR
 GIRLS and YESHIVAH RAMBAM,

Intervenor-Defendants,

and

SENATOR EARL W. BRYDGES, as Majority Leader and Presi-
 dent Pro Tem of the New York State Senate,

Intervenor-Defendant.

ORDER

Order Granting Leave to Intervene

A motion having come on to be heard, by order to show cause, why an order, pursuant to Rule 24, should not issue allowing Senator Earl W. Brydges, President Pro Tem and Majority Leader of the New York State Senate, to intervene in this case as a party defendant in his representative capacity and that he have all the rights and standing of a party, and the Court having considered said motion and the proposed answer tendered therewith, and it appearing to the Court that due and sufficient notice of said motion has been served on all parties to this cause, and there being no opposition thereto, and due deliberation being had thereon, it is

ORDERED that Senator Earl W. Brydges in his representative capacity as the Majority Leader and President Pro Tem of the New York State Senate, has leave to intervene in this cause and is hereby made a party thereto and to that end may file his said answer and he is hereby authorized to participate in all prospective proceedings in this cause in the same manner and with like effect as if named an original party to this cause.

/s/ PAUL R. HAYS

U.S.C.J.

/s/ EDMUND L. PALMIERI

U.S.D.J.

/s/ MORRIS E. LASKER

U.S.D.J.

Dated: June 27, 1972

Answer of Intervenor-Defendant Brydges**UNITED STATES DISTRICT COURT****SOUTHERN DISTRICT OF NEW YORK**

[TITLE OMITTED IN PRINTING]

Intervenor-Defendant Senator Earl W. Brydges, residing at Niagara Falls, New York, as Majority Leader and President Pro Tem of the New York State Senate, by his attorneys John F. Haggerty and Louis P. Contiguglia, in his representative capacity for and on behalf of the Senate of the State of New York and as Majority Leader and President Pro Tem of the New York State Senate, for his answer to the complaint herein:

1. Denies the allegations of paragraphs 1 and 2 except admits that this action purports to be brought as described therein.
2. Is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 3, 4 and 5.
3. Admits the allegations contained in paragraph 6 of the complaint.
4. Answering paragraph 7, admits that on April 18, 1970 defendant Nelson A. Rockefeller signed into law Chapter 138 of the Laws of 1970, effective September 1, 1970 (not July 1 as alleged), entitled "An Act to provide for the

Answer of Intervenor-Defendant Brydges

apportionment of state monies to certain nonpublic schools in connection with inspection and examination, and making an appropriation therefor" and respectfully refers to the said statute for the provisions thereof.

5. Is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 except denies that "unless enjoined by this court, (defendants) will . . . make such payment . . . in violation of the Constitution of the United States and the Constitution of the State of New York."

6. Admits the allegations of paragraphs 9 and 10.

7. Denies each and every allegation contained in paragraph 11 except is without knowledge or information sufficient to form a belief as to the truth of the allegations concerning the religious consciences of the plaintiffs.

8. Denies each and every allegation contained in paragraphs 12, 13, 14, 15 and 16.

FIRST DEFENSE

9. The complaint fails to set forth a claim against defendants upon which relief can be granted.

SECOND DEFENSE

10. Plaintiffs lack capacity to bring this action.

*Answer of Intervenor-Defendant Brydges***THIRD DEFENSE**

11. This court lacks jurisdiction over the subject matter of this action in that the amount in controversy is less than \$10,000.00, exclusive of interest and costs.

FOURTH DEFENSE

12. This action seeks, among other things, to invalidate Chapter 138 of the Laws of 1970, to the extent that it provides for or permits payment to religiously-affiliated schools, on the ground that the statute violates Article XI, Section 3 of the New York Constitution.

13. Said claim does not arise under the Constitution or laws of the United States and is purely a matter governed by the laws of the State of New York.

14. In the event that plaintiffs' contention under Article XI, Section 3 is sustained, no issue will or could arise under the Constitution or laws of the United States.

15. The Courts of the State of New York have not passed on the validity under the New York Constitution of Chapter 138 of the Laws of 1970, to the extent that it provides for or permits payments to religiously-affiliated schools.

16. By reason thereof, the complaint herein should be dismissed without prejudice so that the Courts of the State of New York may pass upon the validity of said statute under the New York Constitution.

*Answer of Intervenor-Defendant Brydges***FIFTH DEFENSE**

17. The federal government and its judiciary lack jurisdiction to proscribe the parameters of debate of the Legislature of the State of New York.

SIXTH DEFENSE

18. The expressed purpose of Chapter 138 of the New York Laws of 1970 is to compensate nonpublic schools, without regard to their status as sectarian or nonsectarian schools, for expenses incurred by those schools in making reports to the State, keeping records required by the State, and in administering tests required by State law and regulation. State law requires that students enrolled in nonpublic schools comply with compulsory attendance requirements identical to those of the public schools, which entails the keeping of detailed attendance records by the nonpublic schools and reports to the State. State law requires that certain courses be taught in all schools, public and nonpublic alike, and that teachers in nonpublic schools have similar educational qualifications to those teaching in public schools. These requirements also entail the keeping of records and reports to the State Department of Education. Certain tests of academic achievement must be administered to students in nonpublic and public schools alike, and specific health records must be maintained.

19. All of these records and test requirements involve additional expense to the nonpublic schools for which they are not compensated, although the public schools are partially compensated therefor in the form of state-aid.

Answer of Intervenor-Defendant Brydges

20. The provisions of Chapter 138 constitute a partial reimbursement for the costs imposed on the nonpublic schools by State requirements and do not constitute a prohibited involvement with religion.

21. Chapter 138 has a secular legislative purpose, the insuring that nonpublic schools provide adequate education to children enrolled therein, and a primary effect which neither advances nor inhibits religion, since it provides only reimbursement for State imposed costs unrelated to any religious educational activity of the schools.

WHEREFORE, intervenor-defendant Senator Earl W. Brydges, in his representative capacity as Majority Leader and President Pro Tem of the Senate of the State of New York, demands a judgment and decree of this Court dismissing the complaint herein and declaring Chapter 138 of the New York Laws of 1970 to be constitutional.

Dated: Albany, New York
July 1, 1972

/s/ JOHN F. HAGGERTY
JOHN F. HAGGERTY

/s/ LOUIS P. CONTIGUGLIA
LOUIS P. CONTIGUGLIA

*Attorneys for Intervenor-Defendant
Earl W. Brydges
The Capitol
Senate Chambers
Albany, New York 12224*

**Order Noting Probable Jurisdiction
and Consolidating Appeals**

SUPREME COURT OF THE UNITED STATES

Nos. 72-269, 72-270, and 72-271

Arthur Levitt, as Comptroller of the State of New York,
and Ewald B. Nyquist, as Commissioner of Education
of the State of New York,

Appellant,

v.

Committee for Public Education and
Religious Liberty, *et al.*;

Earl W. Brydges, as Majority Leader and
President pro tem of New York State Senate,

Appellant,

v.

Committee for Public Education and
Religious Liberty *et al.*; and
Cathedral Academy *et al.*,

Appellants,

v.

Committee for Public Education and
Religious Liberty *et al.*

**APPEALS from the United States District Court for the
Southern District of New York.**

*Order Noting Probable Jurisdiction
and Consolidating Appeals*

The statements of jurisdiction in these cases having been submitted and considered by the Court, probable jurisdiction is noted. The cases are consolidated and a total of one hour is allotted for oral argument.

November 6, 1972

A true copy MICHAEL RODAK, JR.

Test:

Clerk of the Supreme Court of the
United States

By

(Illegible)

Deputy

Supreme Court of the United States

No.s. 72-269, 72-270, and 72-271

Arthur Levitt, as Comptroller of the State
of New York, and Ewald B. Nyquist, as
Commissioner of Education of the State of
New York,

Appellant,

v.

Committee for Public Education and Religious
Liberty, et al.;

Earl W. Brydges, as Majority Leader and President
pro tem of New York State Senate,

Appellant,

v.

Committee for Public Education and Religious
Liberty et al.; and

Cathedral Academy et al.,

Appellants,

v.

Committee for Public Education and Religious
Liberty et al.

APPEALS from the United States District Court

for the Southern District of New York.

The statements of jurisdiction in these cases having
been submitted and considered by the Court, probable jurisdic-
tion is noted. The cases are consolidated and a total of one
hour is allotted for oral argument.

November 6, 1972

S U P P L E M E N T T O A P P E N D I X

[Exhibits A through I to Defendant
Nyquist's Answers to Plaintiffs'
Interrogatories, App., pp. 85a-90a]

-K-12-Public Schools

REGENTS STATEMENT
ON STATE AID

The Board of Regents today adopted the following statement:

Regents Statement

State Aid to Public Schools 1970-71

In November of 1969 the Regents presented major recommendations for legislative action which included a series of proposals to increase State aid to the public schools. Those proposals were designed to meet what we described as "the fiscal crisis in the schools."

Now at the beginning of March, the third month of this legislative session, we are compelled to comment again about the seriousness of that crisis in the public school districts across this State. The fiscal crisis has not gone away. In fact, it deepens with each passing day and week.

The financial plight of our school districts is not limited to a particular kind of district or a particular location. The rural and suburban districts with skyrocketing tax rates, the cities with their tax and debt limits and their special burdens for welfare, public protection and other services -- the various districts across the State all face the same problem -- they lack sufficient

(more)

money to meet their rising costs.

In November of 1969 we proposed several measures to increase State aid which taken together constitute a balanced support program we consider to be the absolute minimum. Since that time a number of alternative proposals have been put forward, each one having different effects on individual districts.

We have reviewed these proposals. We have matched them against the facts of the fiscal crisis as we know them. We are convinced more than ever that our November proposals will best meet the varying needs of districts across the State. We would hope, as everyone does, that less money would be required to meet the crisis, but it will not. We urge the Legislature to adopt the Regents proposals.

Non-Public Education

We express again our concern for the financial plight of the non-public elementary and secondary schools of the State. There is a definite inter-relation between their plight and the financial problems of the public schools, which, if the non-public sector were to diminish substantially, will have to make provision for many additional students.

We believe that the instruction in secular subjects provided in non-public schools serves a public purpose and that public funds may properly be appropriated to assist the secular education process. We further believe that assistance cannot be deferred.

We therefore urge adoption by the Legislature of measures which will make it possible within constitutional limits, for non-public schools to continue existence without further substantial decrease in pupil attendance.

*Legal Information
concerning
School Attendance*

The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Bureau of School Social Services
Albany, New York 12224

September 1970
(Revised)

**Legal Information
concerning
School Attendance**

**The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Bureau of School Social Services
Albany, New York 12224**

**September, 1970
(revised)**

The University of the State of New York

Regents of the University
(With years when terms expire)

1984	Joseph W. McGovern, A.B., LL.B., L.H.D., LL.D., D.C.L., Chancellor.....	New York
1985	Everett J. Penny, B.C.S., D.C.S., Vice Chancellor.....	White Plains
1978	Alexander J. Allan, Jr., LL.D., Litt.D.....	Troy
1973	Charles W. Millard, Jr., A.B., LL.D., L.H.D.....	Buffalo
1972	Carl H. Pforzheimer, Jr., A.B., M.B.A., D.C.S., H.H.D....	Purchase
1975	Edward M. M. Warburg, B.S., L.H.D.....	New York
1977	Joseph T. King, LL.B.....	Queens
1974	Joseph C. Indelicato, M.D.....	Brooklyn
1976	Mrs. Helen B. Power, A.B., Litt.D., L.H.D.....	Rochester
1979	Francis W. McGinley, B.S., LL.B., LL.D.....	Glens Falls
1980	Max J. Rubin, LL.B., L.H.D.....	New York
1971	Kenneth B. Clark, A.B., M.S., Ph.D., Litt.D.....	Hastings on Hudson
1982	Stephen K. Bailey, A.B., B.A., M.A., Ph.D., LL.D.....	Syracuse
1983	Harold E. Newcomb, B.A.....	Owego
1981	Theodore M. Black, A.B.....	Sands Point

PRESIDENT OF THE UNIVERSITY AND COMMISSIONER OF EDUCATION

Ewald B. Nyquist

EXECUTIVE DEPUTY COMMISSIONER OF EDUCATION

Gordon M. Ambach

ASSOCIATE COMMISSIONER FOR INSTRUCTIONAL SERVICES

Philip B. Langworthy

DIRECTOR, DIVISION OF PUPIL PERSONNEL SERVICES

Bruce E. Shear

CHIEF, BUREAU OF SCHOOL SOCIAL SERVICES

Wallace M. Lornell

FOREWORD

The State Education Department receives many requests for an extract of the laws concerning school attendance. This bulletin has been prepared in response to those requests. It attempts to assemble in pamphlet form most of the laws and regulations frequently referred to by administrators, attendance teachers, supervisors, and others involved in matters relating to school attendance.

The Bulletin has been prepared in loose-leaf form. This has been done so that when letters, opinions, or interpretations of the law and regulation are released they can be added or included in future additions of the bulletin. School personnel can also attach to their copies pertinent information as it becomes available. In this way a comprehensive handbook on attendance and related areas can be developed.

Inquiries concerning information in this publication should be addressed to the Bureau of School Social Services, State Education Department, Albany, New York, 12224.

Henry R. Kunze
David H. Smith
Associates in School Attendance

Table of Contents

New York State Laws Concerning School Attendance

<u>Section</u>	<u>Page</u>
3201. No Exclusion On Account of Race, Creed, Color or National Origin	1
3202. Public Schools Free to Resident Pupils; Tuition From Nonresident Pupils	1
3203. Selection of School for Attendance of Children When District Line Intersects a Dwelling	2
3204. Instruction Required	3
3205. Attendance of Minors Upon Full Time Day Instruction	6
3206. Attendance of Minors Upon Part Time Instruction	6
3207. Attendance Upon Evening Instruction	7
3207-a. (Recitation Periods in High School Evening Session)	8
3208. Attendance of Minors, Proper Mental and Physical Condition	8
3209. Duties of Public Welfare Officials With Respect to Indigent Children	9
3210. Amount and Character of Required Attendance	9
3211. Records of Attendance Upon Instruction	10
3212. Definition of Persons in Parental Relation and Their Duties; Duties of Certain Minors and Other Persons	11
3213. Supervisors of Attendance; Attendance Teachers; Attendance Officers, Appointment, Compensation, Powers and Duties	12
3214. School For Delinquents	15
3215. Unlawful Employment	17
3216. Employment Certificate	19

<u>Section</u>	<u>Page</u>
3216-c. Certain Types of Employment of Children Prohibited; Other Authorized Upon Consent of Local Authorities	20
3217. Procedure for Issuance of Employment Certificates	22
3218. Evidence of Age	22
3219. Consent of Parent or Guardian	23
3220. Certificate of Physical Fitness	23
3221. Job Description	24
3222. Schooling Record	24
3223. Duties of Employers	25
3224. Temporary Services	25
3225. Special Employment Certificate	26
3226. Farm Work Permits	26
3227. Street Trades; Definition and General Regulations	27
3228. Newspaper Carrier Boy	28
3229. Certain Types of Employment of Children Prohibited; Others Authorized Upon Consent of Local Educational Authorities	29
3230. Employment of Children as Models	31
3231. General Provisions	33
3232. Courts Having Jurisdiction	34
3233. Penalties	34
3234. Enforcement; Withholding State Moneys by Commissioners of Education	35
3240. School Census in the Cities of New York, Buffalo, and Rochester	35
3241. School Census in Cities	35
3242. School Census in School Districts	36
3243. Penalty for Withholding Information	37

Commissioners Regulations Concerning School Attendance

	<u>Page</u>
TEACHERS CERTIFICATE	
80.29 Attendance teacher	38
EXEMPTIONS FROM ATTENDANCE	
101.1 Definitions	39
101.2 Exemption from attendance	39
101.3 Certificate of exemption	40
101.4 Examination and recommendation	40
101.5 Notices	41
101.6 Transfers	41
101.7 Pupil attendance record-keeping	41
RELIGIOUS OBSERVANCE AND EDUCATION	
109.2 Absence from school	42
CHILD PERFORMANCES	
190.1 Issuance of consents	43
190.2 Employment or exhibition of children as models	44
EMPLOYMENT CERTIFICATES	
191.1 Casual employment for which employment certificate is not required	46
Related Laws	47
Index of Laws and Commissioner's Regulations	48

3201. NO EXCLUSION ON ACCOUNT OF RACE, CREED, COLOR OR NATIONAL ORIGIN.

No person shall be refused admission into or be excluded from any public school in the state of New York on account of race, creed, color or national origin.

3202. PUBLIC SCHOOLS FREE TO RESIDENT PUPILS; TUITION FROM NONRESIDENT PUPILS.

1. A person over five and under twenty-one years of age is entitled to attend the public schools maintained in the district or city in which such person resides without the payment of tuition. A veteran of any age who shall have served as a member of the armed forces of the United States and who shall have been discharged therefrom under conditions other than dishonorable, may attend any of the public schools of the state upon conditions prescribed by the board of education, and the attendance of such veterans shall be counted for state aid purposes. Nothing herein contained shall, however, require a board of education to admit a child who becomes five years after the school year has commenced unless his birthday occurs on or before the first of December.

2. Nonresidents of a district, if otherwise competent, may be admitted into the school or schools of a district or city, upon the consent of the trustees or the board of education, upon terms prescribed by such trustees or board.

3. The school authorities of a district or city must deduct from the tuition of a nonresident pupil, whose parent or guardian owns property in such district or city and pays a tax thereon for the support of the schools maintained in such district or city, the amount of such tax.

4. Children cared for in a duly incorporated orphan asylum or other institution for the care, custody and treatment of children, other than the children of the officers and employees of such institution, shall not, by reason of their presence in such institution, be deemed to be residents of the school district in which such institution is located. The trustees or other authorities in charge of any such institution may contract with the trustees or board of education of the school district in which such institution is located for the secular instruction of such children. If such children are supported and maintained at the expense of a public welfare district, the cost of the secular instruction of such children in the school or schools in the district shall be paid by the public welfare district which is liable for the payment of the cost of their support and maintenance. If such children are not supported and maintained at the expense of a public welfare district, the cost of the secular

instruction of such children in the school or schools in the district shall be a charge upon and shall be paid by the school district responsible for their instruction at the time of their admittance to said duly incorporated orphan asylum or other institution for the care, custody and treatment of children. The trustees or board of education of the school district in which such institution is located shall receive such children in the school or schools of the district for instruction for a compensation to be fixed by the trustees or board of education, unless such trustees or board of education shall establish to the satisfaction of the commissioner of education that there are valid and sufficient reasons for refusal to receive such children.

5. Children cared for in free family homes, and children cared for in family homes at board, when such family homes shall be the actual and only residence of such children or such children have been removed from the custody of their parents by order of the children's court, shall be deemed residents of the school district in which such family homes is located. Other children cared for in family homes at board shall not be deemed residents of the school district in which such family homes are located, but shall receive free tuition in the school district in which such family homes are located, unless the trustees or board of education of such school district shall establish to the satisfaction of the commissioner of education that there is a valid and sufficient reason for refusal to receive such children or that the reception of such children in the school or schools imposes an unreasonable additional operating cost on such school district. In the latter case the commissioner of education may decide that tuition shall be paid for such children, in which case he shall fix the amount of tuition to be paid by the person responsible for the support of any such child or children. If any such child is a charge on any public welfare district, such tuition shall be paid by the public welfare district responsible for the child's support and maintenance.

3203. SELECTION OF SCHOOL FOR ATTENDANCE OF CHILDREN WHEN DISTRICT LINE INTERSECTS A DWELLING.

1. The owner of taxable property that is so located that the boundary line between two school districts intersects the dwelling on said property may designate the school in either of such districts to which the children lawfully residing in said dwelling shall attend by filing with the district clerk of each of such districts a notice of such designation on or before August first in any year and thereafter and, until a subsequent designation shall be made and filed, such children shall be deemed to be resident children of the district designated and shall be entitled to the school privileges of such district as resident pupils without the payment of tuition.

2. School taxes on such property shall continue to be levied and collected without reference to the aforesaid designation, but the school authorities of the district that levies and collects a tax upon such property and does not furnish instructional service to the children residing on such property shall pay to the district designated, in which such children are received and instructed, the amount of the tax on such property so levied and collected. If any such district shall fail or refuse on demand to pay the amount of any tax so collected, the school authorities of the district designated and furnishing the instructional service may recover the amount in an action therefor.

3. A designation made as provided in this section shall continue until a new designation is made or until the district superintendent or superintendents having jurisdiction over the districts affected shall otherwise order in a proceeding for the alteration of the boundaries of the district, but no subsequent designation may be made in any school year after August first until the close of that school year.

3204. INSTRUCTION REQUIRED.

1. Place of instruction. A minor required to attend upon instruction by the provisions of part one of this article may attend at a public school or elsewhere. The requirements of this section shall apply to such a minor, irrespective of the place of instruction.

2. Quality and language of instruction; text-books. Instruction may be given only by a competent teacher. In the teaching of the subjects of instruction prescribed by this section, English shall be the language of instruction, and text-books used shall be written in English, except that for a period of three years from the date of enrollment in school, pupils who, by reason of foreign birth, ancestry or otherwise, experience difficulty in reading and understanding English, may, in the discretion of the board of education, board of trustees or trustee, be instructed in all subjects in their native language and in English. Instruction given to a minor elsewhere than at a public school shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides.

2a. Bilingual instruction in schools. 1. The governing board of any school district is hereby empowered to determine the circumstances and necessity wherein instruction shall be given bilingually. The said governing board shall design the necessary procedures and acquire the necessary training materials and equipment to meet the special educational needs of children of limited English speaking ability through programs designed to accomplish the following:

- a. bilingual education;
- b. to impart to students a knowledge of the history and culture associated with their languages;

- c. to establish closer cooperation between the school and the home;
- d. to provide early childhood educational programs related to the purposes of this section and designed to improve the potential for profitable learning activities by children;
- e. to provide adult education programs related to the purposes of this section, particularly for parents of children participating in bilingual programs;
- f. to provide programs designed for dropouts or potential dropouts having need of bilingual programs;
- g. to provide programs to be conducted by accredited trade, vocational or technical schools; and
- h. to provide other activities deemed desirable to further the purposes of this section.

2. Any duly authorized local educational agency or agencies is hereby empowered to make application for any grant or grants in furtherance of this section under Title VII Public Law 90-247 as enacted by the United States Congress January second, nineteen hundred sixty-eight.

3. Courses of study. a. (1) The course of study for the first eight years of full time public day schools shall provide for instruction in at least the twelve common school branches of arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene, physical training, the history of New York state and science.

(2) The courses of study and of specialized training beyond the first eight years of full time public day schools shall provide for instruction in at least the English language and its use, in civics, hygiene, physical training, and American history including the principles of government proclaimed in the Declaration of Independence and established by the constitution of the United States.

(3) The courses of study beyond the first eight years of full time public day schools may provide a program for a course in "communism and its methods and its destructive effects".

b. For part time day schools. The course of study of a part time public day school shall include such subjects as will enlarge the civic and vocational intelligence and skill of the minors required to attend.

c. For evening schools. In a public evening school instruction shall be given in at least speaking, reading, and writing English.

d. For parental schools. In a parental school provision shall be made for vocational training and for instruction in other subjects appropriate to the minor's age and attainments.

e. Changes in courses of study. The state education department shall have power to alter the subjects of instruction as prescribed in this section.

4. Length of school sessions. a. A full time day school or class, except as otherwise prescribed, shall be in session for not less than one hundred ninety days each year, inclusive of legal holidays that occur during the term of said school and exclusive of Saturdays.

(The 190 days required by this paragraph no longer holds. Section 3604 on which State aid is based was amended in 1958 to provide for a session of 180 days. Through oversight, Section 3204, paragraph 4 was not amended. The intent is to require 180 days of instruction). SEE PAGE 37

b. A part time day school or class shall be in session each year for at least four hours of each week during which the full time day schools are in session.

c. Evening schools shall be in session each year as follows:

(1) In cities having a population of one hundred thousand or more, on at least one hundred nights;

(2) In cities having a population of fifty thousand but less than one hundred thousand, on at least seventy-five nights;

(3) In each other city, and in each school district where twenty or more minors from seventeen to twenty-one years of age are required to attend upon evening instruction, on at least fifty nights.

5. Subject to rules and regulations of the board of regents, a pupil may, consistent with the requirements of public education and public health, be excused for such study of health and hygiene as conflicts with the religion of his parents or guardian. Such conflict must be certified by a proper representative of their religion as defined by section two of the religious corporations law.

3205. ATTENDANCE OF MINORS UPON FULL TIME DAY INSTRUCTION.

1. a. In each school district of the state, each minor from six to sixteen years of age shall attend upon full time day instruction.

b. Each minor from six to sixteen years of age on an Indian reservation shall attend upon full time day instruction.

The provisions of paragraphs a and b of this subdivision shall not apply to minors while they are attending kindergarten when they attain the age of six years.

2. Exceptions. a. A minor who has completed a four-year high school course of study shall not be subject to the provisions of part one of this article in respect to required attendance upon instruction.

b. A minor for whom application for a full-time employment certificate has been made and who is eligible therefor may, though unemployed, be permitted to attend part time school not less than twenty hours per week instead of full time school.

3. In each city of the state and in union free school districts having a population of more than forty-five hundred inhabitants and employing a superintendent of schools, the board of education shall have power to require minors from sixteen to seventeen years of age who are not employed to attend upon full time day instruction.

3206. ATTENDANCE OF MINORS UPON PART TIME INSTRUCTION.

1. The board of education of a city or district shall have power to require each employed minor from sixteen to seventeen years of age to attend upon part time instruction in accordance with the provisions of this section.

2. A minor who is a graduate of a four-year high school course of study shall not be required to attend upon part time instruction.

3. The attendance of an employed minor required to attend upon part time instruction by a board of education in accordance with the provisions of this section shall be for not less than four, nor more than eight hours per week, and on such day or days of the week as the school authorities may determine.

4. An employed minor, while temporarily unemployed, or a minor attending part time school under the provisions of subdivision two, paragraph b, of section thirty-two hundred five, required to attend part time instruction by a board of education in accordance with the provisions of this section, shall attend upon part time day instruction for not less than twenty hours a week. An employed minor shall be deemed to be temporarily unemployed until he reenters lawful employment or attends upon full time day instruction.

5. The absence of an employed minor during a rush season may be permitted by the school authorities on condition that the minor attend a greater number of hours per week thereafter until the absence is made up, and provided that the minor's employer is a party to such an agreement.

6. An absence due to unlawful cause may be required to be made up by attendance in excess of the number of hours per week otherwise required.

7. The school authorities of a city or district shall have power after a hearing to establish a half-time system or program of employment and required attendance at part time schools for minors who are included by the provisions of this section.

8. Each minor above the age of sixteen years and under the age of eighteen years, who is not in regular full-time day attendance at a public, private or parochial school or who is regularly and lawfully employed in some occupation or service, unless such minor has completed a four year secondary course of instruction approved by the regents of the university, shall attend a part-time school or class in the city or district in which such minor resides or may be employed, provided the board of education of such city or district has enacted appropriate rules and regulations requiring attendance at such part-time schools under the provisions of section forty-six hundred one. Such attendance shall be subject to the provisions of article ninety-three of this chapter.

3207. ATTENDANCE UPON EVENING INSTRUCTION.

In each city and school district in which evening instruction is provided, under the provisions of part one of this article, each minor from seventeen to twenty-one years of age who is unable to speak, read and write English as required for the completion of the fifth year of the elementary school course of study, and who is not attending upon equivalent day instruction, shall attend upon such evening instruction.

The board of education of the city of New York may reduce the length of recitation periods from forty minutes to thirty-five minutes in evening session in high schools operated by such board.

3208. ATTENDANCE OF MINORS, PROPER MENTAL AND PHYSICAL CONDITION.

1. A minor included by the provisions of part one of this article shall be required to attend upon instruction only if in proper mental and physical condition.

2. A minor whose mental or physical condition is such that his attendance upon instruction under the provisions of part one of this article would endanger the health or safety of himself or of other minors, or who is feeble-minded to the extent that he is unable to benefit from instruction, shall not be permitted to attend.

3. A minor whose mental or physical condition is such that, because of the lack of facilities for his care, transportation and instruction, he is not permitted or required to attend upon instruction, shall be deemed in proper mental and physical condition to attend, if the lacking facilities are provided.

4. If a minor's mental or physical condition, by virtue of which he is not required or permitted to attend upon instruction, is due to physical defects or to a physical condition which may be remedied by the taking of reasonable measures, such mental or physical condition shall justify only the temporary failure of the minor to attend.

5. The determination of a minor's mental or physical condition under the provisions of part one of this article shall be based upon actual examination of the minor made by a person or persons qualified by appropriate training and experience, in accordance with regulations of the state education department. The state education department shall designate persons having the required qualifications to make such mental or physical examinations on behalf of any local school authorities, except that in a city having a population of one million or more the superintendent of schools shall designate such persons.

3209. DUTIES OF PUBLIC WELFARE OFFICIALS WITH RESPECT TO
INDIGENT CHILDREN.

Public welfare officials, except as otherwise provided by law, shall furnish indigent children with suitable clothing, shoes, books, food and other necessities to enable them to attend upon instruction as hereinbefore required by law.

3210. AMOUNT AND CHARACTER OF REQUIRED ATTENDANCE.

1. Regularity and conduct. a. A minor required by the provisions of part one of this article to attend upon instruction shall attend regularly as prescribed where he resides or is employed, for the entire time the appropriate public schools or classes are in session and shall be subordinate and orderly while so attending.

b. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

2. Attendance elsewhere than at a public school. a. Hours of attendance. If a minor included by the provisions of part one of this article attends upon instruction elsewhere than at a public school, he shall attend for at least as many hours, and within the hours specified therefor.

b. Absence. Absence from required attendance shall be permitted only for causes allowed by the general rules and practices of the public schools. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

c. Holidays and vacations. Holidays and vacations shall not exceed in total amount and number those allowed by the public schools.

d. Exception. In applying the foregoing requirements a minor required to attend upon full time day instruction by the provisions of part one of this article may be permitted to attend for a shorter school day or for a shorter school year or for both, provided, in accordance with the regulations of the state education department, the instruction he receives has been approved by the school authorities as being substantially equivalent in amount and quality to that required by the provisions of part one of this article.

e.* Registration of certain private schools. No person or persons, firm or corporation, other than the public school authorities or an established religious group, shall establish or maintain a nursery school and/or kindergarten and/or elementary school giving instruction in the ten common school branches of arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene and physical training, unless the school is registered under regulations of the commissioner. Upon complying with the said regulations and after payment of a fee of twenty-five dollars a certificate of registration shall be issued by the department which shall be valid for a period of two years from the date of issuance unless suspended or revoked within said period pursuant to said regulations. Such registration may be renewed biennially thereafter upon the payment of a renewal registration fee of twenty-five dollars.

* Paragraph "e" has been declared unconstitutional by the courts.

3211. RECORDS OF ATTENDANCE UPON INSTRUCTION.

1. Who shall keep such record. The teacher of every minor required by the provisions of part one of this article to attend upon instruction, or any other school district employee as may be designated by the commissioner of education under section three thousand twenty-four of this chapter, shall keep an accurate record of the attendance and absence of such minor. Such record shall be in such form as may be prescribed by the commissioner of education.

2. Certificates of attendance to be presumptive evidence. A duly certified transcript of the record of attendance and absence of a child which has been kept, as provided in this section, shall be accepted as presumptive evidence of the attendance of such child in any proceeding brought under the provisions of part one of this article.

3. Inspection of records of attendance. An attendance officer, or any other duly authorized representative of the school authorities, may at any time during school hours, demand the production of the records of attendance of minors required to be kept by the provisions of part one of this article, and may inspect or copy the same and make all proper inquiries of a teacher or principal concerning the records and the attendance of such minors.

4. Duties of principal or person in charge of the instruction of a minor. The principal of a school, or other person in charge of the instruction upon which a minor attends, as provided by part one of this article, shall cause the record of his attendance to be kept and produced and all appropriate inquiries in relation thereto answered as hereinbefore required. He shall give prompt notification in writing

to the school authorities of the city or district of the discharge or transfer of any such minor from attendance upon instruction, stating the date of the discharge, its cause, the name of the minor, his date of birth, his place of residence prior to and following discharge, if such place of residence be known, and the name of the person in parental relation to the minor.

3212. DEFINITION OF PERSONS IN PARENTAL RELATION AND THEIR DUTIES; DUTIES OF CERTAIN MINORS AND OTHER PERSONS.

1. Definition. As used in this article, a person in parental relation to a minor shall include his father or mother, by birth or adoption, his step-father or step-mother, his legally appointed guardian, or his custodian. A person shall be regarded as the custodian of a minor if he has assumed the charge and care of the minor because the parents or legally appointed guardian of the minor have died, are imprisoned, are insane, or have been committed to an institution, or because, they have abandoned or deserted the minor or are living outside the state or their whereabouts are unknown.

2. Duties of persons in parental relation. Every person in parental relation to a minor included by the provisions of part one of this article:

a. Shall submit at the time such minor begins to attend upon instruction evidence of age as required for the issuance of an employment certificate, or show that such evidence cannot be produced.

b. Shall cause such minor to attend upon instruction as hereinbefore required, and to comply with the provisions of part one of this article with respect to the employment or occupation of minors in any business or service whatever.

c. Shall cause such minor to be placed in proper physical condition to attend upon required instruction, if his physical condition is remediable by the taking of reasonable measures.

d. Shall furnish proof that a minor who is not attending upon instruction at a public or parochial school in the city or district where the person in parental relation resides is attending upon required instruction elsewhere. Failure to furnish such proof shall be presumptive evidence that the minor is not attending.

e. Shall furnish, with respect to a minor from seventeen to twenty-one years of age, on demand of a duly authorized representative of the school authorities, satisfactory proof that he is able to speak, read and write English as required for the completion of the fifth year of the elementary school course of study, or cause such minor to submit to an examination to determine his ability in these respects.

3. Exception. A person in parental relation to a minor included by the foregoing provisions of this section shall not be subject thereto if it can be shown that he is unable to control the minor.

4. Duties of certain minors from sixteen to twenty-one years of age. A minor from sixteen to twenty-one years of age, if not under the control of a person in parental relation, shall comply with such requirements of part one of this article as are applicable.

5. Duties of other persons.

a. No person shall induce a minor to absent himself from attendance upon required instruction or harbor him while he is absent or aid or abet him in violating any provision of part one of this article.

b. No person shall interfere with an attendance officer in the lawful pursuit of his duties, or neglect or refuse to answer his lawful inquiries.

c. No person shall violate any provision of part one of this article in relation to employment of minors, duties of employers, issuance or transfer of any paper authorizing the employment of minors.

d. No person shall make a false oral or written statement in or in relation to any employment certificate or other paper required by part one of this article as to any matter required to appear therein.

f. No person shall present as his own any substitute, altered or transferred certificate or badge.

6. Birth certificates. For the purpose of part one of this article, the board of health upon request shall furnish to the school authorities, or to the person in parental relation to a minor, or to a minor from seventeen to twenty-one years of age, a duly certified transcript of the birth certificate, filed according to law, of a minor from five to twenty-one years of age.

3213. SUPERVISORS OF ATTENDANCE; ATTENDANCE TEACHERS; ATTENDANCE OFFICERS; APPOINTMENT, COMPENSATION, POWERS, AND DUTIES.

1. Appointment, removal, compensation and supervision.

a. To the end that children shall not suffer through unnecessary failure to attend school for any cause whatsoever, it shall be the duty of each attendance teacher and each attendance supervisor to secure for every child his fullest potentialities for education,

physical, social and spiritual growth as an individual and to provide for the school adjustment of any non-attendant child in cooperation with school authorities, special school services and community and social agencies.

The school authorities of each city school district, union free school district, central school district, central high school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove one or more supervisors of attendance or attendance teachers of such district. A supervisor of attendance shall be appointed in accordance with the civil service law and rules, unless he or she is a licensed attendance teacher or a teacher licensed to teach in New York state, with such further qualifications as the board of regents shall establish. On and after July first, nineteen hundred fifty-five no full-time supervisor of attendance shall be appointed unless he or she holds a license as attendance teacher. Such supervisors of attendance and those holding full-time positions who are similarly licensed teachers or who hold attendance teacher licenses shall be assigned to the step in the salary schedule of the school district commensurate with the salary being paid such supervisors or teachers. Such persons shall be paid thereafter in accordance with such schedule. If the amount of salary received on said July first, nineteen hundred fifty-five is less than the minimum step of the salary schedule, such supervisor or teacher shall be paid until June thirtieth, nineteen hundred fifty-six at the rate of the first step and in accordance with the schedule thereafter.

No supervisor of attendance or attendance teacher shall be appointed who is not twenty-one years of age and in proper physical condition.

In the establishment of an eligible list advanced education related to attendance service shall be taken into consideration in the grading of the candidates. Experience in teaching, in social service and welfare work, and in business or in the professional field shall likewise be taken into consideration.

Paragraph a of subdivision one of this section shall apply to a city in which attendance supervisors are appointed from an eligible list now prepared by a board of examiners.

Supervisors of attendance in a city having a board of examiners shall be licensed as attendance teachers only when they comply with the regulations for such license as established by the commissioner of education and any additional requirements which may be established by the board of examiners.

The board of education shall fix the compensation of part-time supervisors of attendance and prescribe their duties not inconsistent with part one of this article and make rules and regulations for the performance thereof. The superintendent of schools or district superintendent of schools shall supervise the enforcement of part one of this article within such city or school district.

b. The town board of each town, with the approval, in writing, of the district superintendent, shall appoint, on or before August first of each year, one or more attendance officers and shall fix their compensation. During the school year it shall also fill promptly any vacancy after notification thereof by the district superintendent. The district superintendent shall promptly notify the town board of his approval or disapproval of an appointment. If within one month a town board shall not comply with the foregoing provisions, the district superintendent, subject to appeal to the commissioner of education, shall exercise the powers and duties of the town board with respect thereto. An attendance officer appointed for a town shall have jurisdiction over all school districts of the town which are not otherwise provided for by this section. He shall be removable at the pleasure of the district superintendent. His compensation and his necessary expenses in attending conferences called by the district superintendent shall be a town charge.

c. In case a school district shall include territory lying within the boundaries of more than one town, the attendance officer appointed by the town in which the schoolhouse is located shall have jurisdiction over the entire school district.

2. Powers and duties. a. Arrest of truants. A supervisor of attendance, attendance teacher or attendance officer, as the case may be, may arrest without warrant any minor who is unlawfully absent from attendance upon instruction. He shall forthwith place the minor so arrested in attendance upon required instruction and shall notify the parent or guardian of the minor, and he may then begin proceedings for his commitment as a school delinquent or arraign him before a court having jurisdiction. Where a minor resides in one school district and attends school in another school district, the supervisor of attendance, attendance teacher or attendance officer of the district where the minor resides and the supervisor of attendance, attendance teacher or attendance officer of the district where said minor attends school shall have concurrent jurisdiction with reference to said minor and to the person or persons in parental relation to him.

b. Right of entry.

(1) A supervisor of attendance, attendance teacher or attendance officer, as the case may be, in the performance of his duties, may enter during business hours any factory, mercantile or other establishment, or other place in which a minor is believed to be employed, within the city or school district in which he is appointed, and shall be entitled to examine on demand the employment certificates or work permits of minors therein employed, for whose lawful employment such certificates or permits are required by the provisions of part one of this article.

(2) He may also enter any public place during the hours in which the public have access thereto, to ascertain if any minor is therein who is required to attend upon instruction by the provisions of part one of this article, or engaged in a street trade contrary to the provisions of part one of this article, or to collect information required for the school census.

c. Peace officers. Supervisors of attendance, attendance teachers and attendance officers shall be vested with the powers of peace officers for the purpose of carrying out the provisions of part one of this article.

3214. SCHOOL FOR DELINQUENTS.

1. School delinquent. A minor under seventeen years of age, required by any of the provisions of part one of this article to attend upon instruction, who is an habitual truant from such instruction or is irregular in such attendance or insubordinate or disorderly during such attendance, is a school delinquent.

2. Special day schools. The school authorities of any city or school district may establish schools or set apart rooms in public school buildings for the instruction of school delinquents, and fix the number of days per week and the hours per day of required attendance, which shall not be less than is required of minors attending the full time day schools.

3. Parental schools. Such authorities may also establish parental schools for the confinement, maintenance and instruction of school delinquents.

4. Agreements for instruction, confinement and maintenance of school delinquents elsewhere. Such school authorities may also make agreements for the confinement, maintenance and instruction of school delinquents, with any private school, orphans' home, or similar institution controlled by persons of the same religious faith as that of the school delinquent or with the school authorities of another city or district, or with other public agencies.

5. Commitment and parole of a school delinquent. a. Hearing. After reasonable notice to a school delinquent and to the person in parental relation to him and an opportunity for them to be heard, a public school official, as hereinafter provided, may, with the consent in writing of the person in parental relation to the school delinquent, order him to attend a special day school, or to attend upon instruction under confinement at a parental school or elsewhere, as hereinbefore provided, for a period not exceeding two years but in no case after the minor reaches the maximum age of required attendance upon instruction.

b. Official authorized to commit a school delinquent. The following public school officials shall have power to commit a school delinquent as hereinbefore provided:

(1) In a school district having a director of the bureau of compulsory education, school census and child welfare, such director or person authorized by the school authorities to act in his absence or disability; or the superintendent of schools.

(2) Elsewhere, school authorities, superintendents of schools, or district superintendents of schools.

c. Procedure in courts.

(1) If the person in parental relation to a school delinquent refuses to consent in writing to an order that he attend a special day school or a parental school, or upon instruction under confinement elsewhere, such person shall be proceeded against for violating the provisions of section thirty-two hundred twelve of this article.

(2) If the court shall find that the person in parental relation has not violated the provisions of section thirty-two hundred twelve, a proceeding shall be brought against the minor for violation of part one of this article.

d. Parole of a school delinquent. The public school official authorized to commit a school delinquent by the provisions of this section shall have power to parole any school delinquent committed under its provisions.

6. Suspension of a minor. a. The board of education, board of trustees or sole trustee, the superintendent of schools, or district superintendent of schools may suspend the following minors from required attendance upon instruction:

(1) A minor who is insubordinate or disorderly, or whose conduct otherwise endangers the safety, morals, health or welfare of others;

(2) A minor whose physical or mental condition endangers the health, safety, or morals of himself or of other minors;

(3) A minor who, as determined in accordance with the provisions of part one of this article, is feeble-minded to the extent that he cannot benefit from instruction.

b. The board of education, board of trustees, or sole trustee may adopt by-laws delegating to the principal of the district, or the principal of the school where the pupil attends, the power to suspend a minor for a period not to exceed five school days.

c. No pupil may be suspended for a period in excess of five school days unless such pupil and the person in parental relation to such pupil shall have had an opportunity for a fair hearing, upon

reasonable notice, at which such pupil shall have the right of representation by counsel, with the right to question witnesses against such pupil. Such hearing shall be held before the superintendent of schools if the suspension was ordered by him. An appeal to the board of education shall lie from his decision upon such hearing. If the suspension shall have been ordered by the board of education, such hearing shall be before such board.

d. In the case of a suspension by the principal pursuant to paragraph b of this subdivision, the pupil and the person in parental relation to him shall, on request, be given an opportunity for an informal conference with the principal at which the person in parental relation shall be authorized to ask questions of complaining witnesses.

e. Procedure after suspension. In the case of a minor who is suspended as insubordinate or disorderly, immediate steps shall be taken for his commitment as provided in this section, or for his attendance upon instruction elsewhere; in the case of a minor suspended for other cause, the suspension may be revoked whenever it appears to be for the best interest of the school and the minor to do so.

3215. UNLAWFUL EMPLOYMENT.

1. It shall be unlawful, except as otherwise provided by law, to employ in any trade, business or service a minor under the age of eighteen years who does not present an employment certificate, permit or badge issued in accordance with this article.

2. No minor shall be employed during the hours when attendance upon instruction is required by this chapter.

3. No minor shall be employed in violation of any provision of the labor law or other law.

4. Exceptions. a. When attendance upon instruction is not required by this chapter, a minor fourteen years of age or over may be employed without an employment certificate, permit or badge in the following occupations:

1. Caddy service on a golf course;
2. Service as a baby sitter staying with and at the home of another child or children with or without the presence at such home of such child or children's parents or guardians;
3. Casual employment of a minor fourteen or fifteen years of age consisting of yard work and household chores in and about a residence or the premises of a non-profit, non-commercial organization not involving the use of power-driven machinery; and

4. Casual employment of a minor sixteen years of age or over consisting of yard work and household chores in and about a residence or the premises of a non-profit, non-commercial organization, not involving the use of power-driven machinery other than power-driven machinery ordinarily used in such yard work or household chores.

b. When attendance upon instruction is not required, a minor sixteen years of age or over may be employed in work on a farm without an employment certificate, permit or badge.

c. Nothing in this section shall prohibit the employment of a minor during the school lunch period in a school cafeteria at the school which the minor attends if the minor presents an employment certificate issued in accordance with this article.

d. Nothing in this section shall be construed to prohibit the employment of a minor under eighteen years of age in accordance with sections thirty-two hundred twenty-six through and including section thirty-two hundred thirty of this chapter.

e. Nothing in this section shall be construed to prohibit the employment of a minor twelve years of age or over in work for his parents or guardians on the home farm or at other outdoor work not connected with or for any trade, business or service when attendance upon instruction is not required by this chapter.

f. Notwithstanding any other provision of this chapter, an employment certificate, permit, or badge shall not be required for a student sixteen years of age or over who is in attendance at a recognized institution of higher learning and who is employed by a non-profit college or university or by a non-profit college or university fraternity, sorority, student association or faculty association.

g. When attendance upon instruction is not required, in a city having a population of one million or more, a minor fourteen years of age and over may present a certificate of eligibility in lieu of an employment certificate where such employment certificate would otherwise be required. A certificate of eligibility shall entitle the minor to perform the type of work which would be permitted if the minor presented an employment certificate. On a form prescribed by the commissioner, the certificate of eligibility to be issued by the school the minor attends or last attended shall contain:

(a) Evidence of the minor's age as defined in section thirty-two hundred eighteen of this article;

(b) Written consent of the minor's parent or guardian;

(c) A statement of the minor's physical fitness based upon a physical examination made by a board of health physician or the minor's personal physician. If the physician authorized to conduct the foregoing examination shall find that the minor is not physically sound but that in his opinion the minor may safely engage in certain occupations as specified by the commissioner of education, he may issue to the minor a certificate of limited fitness and shall describe therein any physical disability of the minor and shall state the specific occupations in which the minor may engage.

On compliance with the foregoing requirements, the principal of the school the minor attends or last attended, or a teacher deputed by the principal or a supervising official, and during the months of July and August, and at other times in extraordinary circumstances and emergencies, by one or more public school officials deputed in writing by the superintendent of schools or by the district superintendent, shall endorse on the certificate of eligibility the name of the school and the grade or class which the minor is then attending or last attended. The certificate of eligibility shall then be issued to the minor. Employers employing minors pursuant to this paragraph g shall be exempt from the provisions of sections thirty-two hundred twenty-three and thirty-two hundred twenty-four of the education law. Such employers shall keep on file in their office at the place of the minor's employment such certificate of eligibility and shall return such certificate to the minor upon termination of the minor's employment.

3216. EMPLOYMENT CERTIFICATE.

1. A student non-factory employment certificate may be issued to a minor fourteen or fifteen years of age who is attending school. The certificate shall be valid for work in or in connection with a factory except as provided in subdivision four of section one hundred thirty-one of the labor law. The certificate shall expire when the minor reaches the age of sixteen, provided however, that if the minor continues attending school and plans to continue in non-factory employment, the expiration date may be extended by the certificating officer upon the minor's presentation of a new certificate of physical fitness. No such certificate of physical fitness shall be required, however, if the employment certificate had been issued within six months prior to the minor's reaching the age of sixteen years.

2. A student general employment certificate may be issued to a minor sixteen or seventeen years of age who is attending school. It shall be valid for work in or in connection with a factory or any other trade, business or service.

3. A full-time employment certificate may be issued to a minor sixteen or seventeen years of age who is not attending school or who declares his intention to leave school for full-time employment. It shall be valid for work in or in connection with a factory or any other trade, business or service. A full-time employment certificate also may be issued to a minor under eighteen who is a high school graduate, but if such minor is under sixteen years of age the certificate shall not be valid for work in or in connection with a factory except as provided in subdivision four of section one hundred and thirty-one of the labor law.

4. An employment certificate shall be kept on file in the office of the employer and shall be returned to the minor when the employment terminates. An employment certificate shall be valid not only for the initial employment, but also for subsequent employments in work permitted by the particular type of employment certificate.

3216-c. CERTAIN TYPES OF EMPLOYMENT OF CHILDREN PROHIBITED; OTHER AUTHORIZED UPON CONSENT OF LOCAL AUTHORITIES.

In cities having a population of more than a million,

A. It shall be unlawful, except as otherwise provided in this section, to employ, or to exhibit or cause to be exhibited, or to use, or have custody of, for the purpose of exhibition, use or employment, any child under the age of sixteen years, or for one who has the care, custody or control of such child as a parent, relative, guardian, employer or otherwise, to exhibit, use or to procure or consent to the use or exhibition of such child or to neglect or to refuse to restrain such child from engaging or acting in a public or private place, except as hereinafter provided, whether or not an admission fee is charged and whether or not such child or any other person is to be compensated for the use of such child therein,

1. In singing; or dancing; or playing upon a musical instrument; or acting or performing in a theatrical performance or appearing in a pageant; or as a subject for use, in or for, or in connection with, the making of a motion picture film; or,

2. In rehearsing for or performing in a radio or television broadcast or program; or,

3. As a rope or wire walker, gymnast, wrestler, boxer, contortionist, rider upon a horse or other animal (except in a non-professional horse show), or as an acrobat; or upon any bicycle or other mechanical vehicle or contrivance; or,

4. In begging or receiving or soliciting alms in any manner or under any pretense, or in any mendicant occupation; or in gathering or picking rags, or collecting cigar stumps, or collecting bones or refuse from markets or street; or in peddling; or,

5. In any illegal, indecent, or immoral exhibition or practice; or in the exhibition of any such child when insane, idiotic, or when presenting the appearance of any deformity or unnatural physical formation or development; or,

6. In any practice or exhibition or place dangerous or injurious to the life, limb, health or morals of such child is guilty of a misdemeanor.

B. The provision of paragraphs one and two of subdivision A of this section shall not apply to the participation or employment, use or exhibition of any child in a church, academy or school, including a dancing or dramatic school, as a part of the regular services or activities thereof respectively; or in the annual graduation exercises of any such academy or school; or in a private home; or in any place where such performance is under the direction, control or supervision of a board of education; or in the performance of radio or television programs in cases where the child or children broadcasting do so from a school, church, academy, museum, library or other religious, civic, or educational institution; or for not more than two hours a week from the studios of a regularly licensed broadcasting company, where the performance of a child or children is of non-professional character and occurs during hours when attending for instruction is not required in accordance with the education law.

C. Notwithstanding the foregoing provisions of subdivision A hereof, such a child may be employed, used or exhibited in any of the exhibitions, rehearsals or performances set forth in paragraphs one and two of subdivision A hereof to perform with written consent of a parent or guardian of such child and with the written consent of the mayor of the city where such performance or entertainment takes place and upon notice to the Society for the Prevention of Cruelty to Children, if there be one within the city as hereinafter prescribed. Such consent shall not be given unless forty-eight hours' previous notice of the application shall have been served by the applicant for such consent upon the Society for the Prevention of Cruelty to Children, if there be one within the city and a hearing had thereon if requested by such Society within the forty-eight hours' period, and shall be revocable at the will of the authority giving it. Such notice of application shall specify the name of the child, its age, the names and residences of its parents or guardians, the nature, time, duration and number of performances permitted, together with the place and character of the exhibition; and where any child is to be employed in the making of a motion picture film it shall provide that the child is to be employed only in the manner described and set forth in the statement in writing submitted with the application, as hereinafter provided. Any person applying for such consent

for the use or employment of any such child or children in posing or acting for or as a subject to use in or in connection with the making of a motion picture film shall submit with such application a true and accurate statement in writing setting forth and describing in details the entire part to be taken and each and every act and thing to be done and performed, by such child in the making of such film to the mayor of such city and to any such society having jurisdiction in such place.

D. Any violation of this section will be a misdemeanor.

3217. PROCEDURE FOR ISSUANCE OF EMPLOYMENT CERTIFICATES.

1. An application for an employment certificate shall be made by a minor on a form prescribed by the commissioner.

2. Before issuing an employment certificate the issuing officer shall require the minor to submit the following:

- a. Evidence of age;
- b. Written consent of the parent or guardian;
- c. A certificate of physical fitness;
- d. A job description from the initial prospective employer;
- e. If the application is for a full-time employment certificate, a schooling record.

3218. EVIDENCE OF AGE.

1. Evidence showing that the minor is of the required age shall be presented as follows:

- a. A duly certified transcript of a birth certificate filed according to law, or duly certified transcript of a record or baptism, giving the date of birth; or, if not available,
- b. A passport showing the date of birth of the minor; or, if not available,
- c. Other documentary evidence or other recorded evidence in existence two years or more, and satisfactory to the certifying officer, except an affidavit of age.

2. Certificate of age. A minor over eighteen years of age may apply for a certificate of age to the superintendent of schools, the district superintendent, or to the certificating officer. Upon such application a certificate of age, containing the name, date of birth, address and signature of the applicant, shall be issued to him if he furnishes such evidence that he is over eighteen years of age as is required for the issuance of an employment certificate. Such a certificate of age or an employment certificate previously issued for such minor shall be conclusive evidence for an employer that the minor has reached the age certified to therein.

3219. CONSENT OF PARENT OR GUARDIAN.

If the application is for a full-time employment certificate a parent or guardian shall personally appear before the issuing officer or school authorities to indicate consent to the issuance of the application, provided, however, that such personal appearance shall not be required if the applicant is a high school graduate.

3220. CERTIFICATE OF PHYSICAL FITNESS.

1. A certificate of physical fitness shall be issued to a minor, if a thorough physical examination made within three months of his application for an employment certificate shows him to be in sound health and physically qualified for lawful employment. Such certificates shall be issued and such physical examinations shall be made, in a city of over three hundred thousand population, by a physician designated by the board of health, and elsewhere by the medical inspector charged with the duty of making physical examinations of all school children.

2. If the physician authorized to issue certificates of physical fitness shall find that a minor from fourteen to eighteen years of age is not physically sound but that in his opinion the minor may safely engage in certain occupations as specified by the regulations of the commissioner of education he may issue to the minor a certificate of limited physical fitness and shall describe therein the physical disability of the minor and shall state the specific occupations in which the minor may engage. An employment certificate issued to a minor from fourteen to eighteen years of age who has presented a certificate of limited physical fitness shall be valid for not more than six months from the date of its issuance and shall bear on the face of the certificate the date of its expiration and the particular occupations to which the employment of the minor is limited.

3. A record made of the physical examination shall show whether a certificate of physical fitness has been issued or withheld. Such record shall be sent to the certificating officer.

4. A certificate of physical fitness issued in another state to a minor seeking employment in this state may be accepted in lieu of the certificate of physical fitness required by subdivision one of this section, provided the standards for issuing such certificates in the other state are deemed substantially equivalent to those of this state in accordance with regulations adopted by the commissioner of education.

3221. JOB DESCRIPTION.

The job description shall be signed by the initial prospective employer or his authorized representative and shall show his name and place of business, the minor's name, the number of days per week and the number of hours per day and per week during which he will be employed, the hours of the beginning and the ending of work, and the nature and type of the employment.

3222. SCHOOLING RECORD.

1. By whom issued. Such record shall be issued by the principal of the school the minor attends or formerly attended, or by a teacher deputized by the principal or by a supervising official, and during the months of July and August, and at other times in extraordinary circumstances and emergencies, by one or more public school officials deputized in writing by the superintendent of schools or by the district superintendent of schools.

2. Procedure. On application of the person in parental relation, a schooling record shall be issued promptly to a minor who complies with the following conditions:

- a. Presents a certificate of physical fitness. Upon receipt of an application for a schooling record the person authorized to issue such record shall request that an examination be made of the minor for a certificate of physical fitness in accordance with the requirements hereon prescribed.
- b. Meets the specified age requirement.

3. Such schooling record shall show, when practicable, the school and grade of class which the minor is then attending.

3223. DUTIES OF EMPLOYERS.

The employer of any minor required to have an employment certificate:

1. Shall before employment begins, file in his office at the place of the minor's employment such certificate so that it may be readily accessible to any person authorized by law to examine such document.

2. Shall satisfy himself that the minor presenting such certificate is in fact the minor named therein by requiring such minor to sign his name on such document.

3. Shall mail at once to the certificating officer the notice of the beginning of the minor's employment which is attached to the certificate and such notice shall also contain information on the nature of the job. The employer also shall enter on the certificate the name and address of the employer and the dates of the beginning and termination of the minor's employment. Upon termination of the minor's employment, the employer shall return the employment certificate to the minor.

4. Shall discontinue the services of a minor required by the provisions of part one of this article to attend upon part time instruction, upon receipt of written notice from the school authorities of the failure of such minor to attend as thus required.

3224. TEMPORARY SERVICES.

a. If an employer is engaged in a business of assigning employees for temporary services at another establishment, and the employer compensates the employee for such services rendered the employer shall keep on file in his office the employment certificate and shall cause to be delivered to each establishment where the child will perform his services a true copy of such employment certificate. Such delivery shall be deemed compliance with sections thirty-two hundred sixteen and thirty-two hundred twenty-three of this chapter. The owner of each establishment to which the child is assigned shall keep on file in his office such copy of the employment certificate, which shall be deemed compliance with sections thirty-two hundred sixteen and thirty-two hundred twenty-three of this chapter, and shall return such copy to the employer at the conclusion of the child's assignment. Such employer shall

note on the original employment certificate the existence of each copy.

b. As used in this section, the term "establishment" includes a factory, mercantile establishment, business office, restaurant, hotel and any other trade, business or service.

c. The commissioner of education may promulgate rules and regulations as he deems necessary to insure that employment under the provisions of this section shall not be harmful or undesirable from the point of view of the welfare, development, or proper education of the child.

3225. SPECIAL EMPLOYMENT CERTIFICATE.

1. A special employment certificate may be issued to a minor fifteen years of age, found to be incapable of profiting by further instruction available upon compliance with the same requirements as in the case of a full-time employment certificate except that a schooling record shall not be required.

2. The fact that a minor is incapable of profiting from further instruction available shall be determined in such manner as may be specified in the regulations of the commissioner of education.

3. A special employment certificate shall not authorize the employment of a minor in or in connection with or for a factory.

3226. FARM WORK PERMITS.

1. A farm work permit may be issued to a minor fourteen or fifteen years of age authorizing employment in farm service.

2. A farm work permit also may be issued to a minor over twelve years of age for employment in assisting in the hand work harvest of berries, fruits and vegetables pursuant to paragraph e of subdivision two of section one hundred thirty of the labor law.

3. To obtain a farm work permit a minor shall present to the issuing officer the following:

- a. Evidence of age;
- b. Written consent of the parent or guardian; and
- c. A certificate of physical fitness

4. Such permit shall be valid only when signed by the employer and subject only to the condition that it shall not be valid for work in or in connection with a factory.

5. A farm work permit shall not be required for the employment of a minor sixteen years of age or over in farm service.

3227. STREET TRADES; DEFINITION AND GENERAL REGULATIONS.

1. Definition. A street trade for the purposes of part one of this article shall include the carrying, selling, exposing or offering for sale of newspapers or periodicals, and work as a bootblack, by a minor within the ages specified in this section, but shall not include the occupation engaged in by a newspaper carrier boy as defined in subdivision one of section thirty-two hundred nineteen-a of this chapter.

2. Application. The provisions of this section shall apply to all school districts.

3. No boy under fourteen and no girl under eighteen years of age shall be engaged in a street trade; and no boy from fourteen to eighteen years of age shall be so engaged unless a street trades badge or certificate has been lawfully issued to him.

4. A street trades badge or certificate shall be issued by the school authority upon an application signed by the minor and the parent or guardian of the minor. There shall be attached and made a part of said application evidence of required age by a duly certified transcript of a birth certificate, record of baptism or passport of such other evidence of age as shall satisfy the issuing authority. The school authority, before issuing the badge or certificate, shall require a statement from a physician designated by the board of health in cities of over three hundred thousand population and elsewhere from the school physician showing that the minor is in sound health and physically qualified to engage in a street trade. The annual physical examination required by article nineteen of this chapter may serve as the required examination hereunder and shall determine the continuance of the badge or certificate from year to year, provided that further examinations may be made by the examining physician for this purpose as circumstances may require.

5. A boy to whom a street trades badge or certificate has been issued shall carry it on his person while engaged in a street trade. Such a badge or certificate shall not be transferred to another boy or used by another if transferred.

6. No boy shall be engaged in a street trade before six o'clock in the morning nor after seven o'clock in the evening, nor during the time he is required to attend upon instruction, nor more than four hours in any one day when school is in session, nor more than five hours in any one day when school is not in session.

7. The police shall enforce the provisions of this section except with respect to the issuance and revocation of street trades badges or certificates. The industrial commissioner shall have concurrent power to enforce this section except with respect to the issuance and revocation of street trades badges or certificates.

8. The school authorities may revoke the badge or certificate for cause after due notice.

3228. NEWSPAPER CARRIER BOY.

1. Definition. A "newspaper carrier boy" is a male minor between the ages of twelve and eighteen years of age who engages in the occupation of delivering or selling and delivering newspapers or periodicals to customers at their homes or places of business.

2. A "newspaper carrier boy" shall possess a newspaper carrier boy certificate or badge issued by the school authorities of the school district in which he resides and shall carry it upon his person when engaged in the occupation of delivering or selling and delivering newspapers or periodicals to homes or places of business.

3. A newspaper carrier boy certificate or badge shall be issued by the school authorities of the school district in which the boy resides and upon an application signed by the minor and the parent or guardian of the minor. There shall be attached to, and made a part of, such application, evidence of required age by a duly certified transcript of a birth certificate, record of baptism, passport or such other evidence of age as shall satisfy the issuing authority.

The issuing authority, before issuing the certificate or badge, shall require a statement from a physician designated by the board of health in cities of over three hundred thousand population and elsewhere from the school physician showing that the minor is physically qualified to engage in the occupation of delivering or selling and delivering newspapers or periodicals to homes or places of business. The annual physical examination required by article nineteen of this chapter may serve as the required examination hereunder and shall determine the continuance of the certificate or badge from year to year, provided that further examinations may be made by the examining physician for this purpose as circumstances may require.

4. No newspaper carrier boy shall be engaged in delivering or selling and delivering newspapers or periodicals before six o'clock in the morning nor after seven o'clock in the evening, nor during the time he is required to attend upon instruction, nor for more than four hours in any one day when school is in session, nor more than five hours in any one day when school is not in session.

5. No male minor under twelve years of age may engage in the occupation of delivering or selling and delivering newspapers or periodicals to customers at their homes or places of business.

6. The school authorities may revoke the certificate or badge for cause after due notice.

7. Enforcement. The police shall enforce the provisions of this section except with respect to the issuance and revocation of street trades badges or certificates. The industrial commissioner shall have concurrent power to enforce this section except with respect to the issuance and revocation of street trades badges or certificates.

8. It shall be unlawful for any person or corporation to wilfully and knowingly deliver or cause to be delivered newspapers or periodicals to a newspaper carrier boy who is not in compliance with the provisions of this section.

3229. CERTAIN TYPES OF EMPLOYMENT OF CHILDREN PROHIBITED; OTHERS AUTHORIZED UPON CONSENT OF LOCAL EDUCATIONAL AUTHORITIES.

In cities having a population of less than one million or in any school district.

1. It shall be unlawful, except as otherwise provided in this section, to employ, or to exhibit or cause to be exhibited, or to use, or have custody of, for the purpose of exhibition, use or employment, any child under the age of sixteen years, or for one who has the care, custody or control of such child as a parent, relative, guardian, employer or otherwise, to exhibit, use or to procure or consent to the use or exhibition of such child, or to neglect or to refuse to restrain such child from engaging or acting in a public or private place, except as hereinafter provided, whether or not an admission fee is charged and whether or not such child or any other person is to be compensated for the use of such child herein.

- a. In singing; or dancing; or playing upon a musical instrument; or acting or performing in a theatrical performance or appearing in a pageant; or as a subject for use, in or for, or in connection with, the making of a motion picture film; or,

- b. In rehearsing for or performing in a radio or television broadcast or program.

2. The provisions of subdivision one of this section shall not apply to the participation or employment, use or exhibition of any child in a church, academy or school, including a dancing or dramatic school, as a part of the regular services or activities thereof respectively; or in the annual graduation exercises of any such academy or school; or in a private home; or in any place where such performance is under the direction, control or supervision of a board of education, trustee or trustees; or in the performance of radio or television programs in cases where the child or children broadcasting do so from a school, church, academy, museum, library or other religious, civic or educational institution; or for not more than two hours a week from the studios of a regularly licensed broadcasting company, where the performance of the child or children is of a nonprofessional character and occurs during hours when attendance for instruction is not required in accordance with the education law.

3. Notwithstanding the foregoing provisions of subdivision one hereof, such a child may be employed, used or exhibited in any of the exhibitions, rehearsals or performances set forth in subdivision one hereof to perform with the written consent of the board of education, trustee or trustees, where such exhibition, rehearsal or performance takes place, or of the public school official thereof to whom authority to grant such consent may be delegated by such educational authority, such consent to be granted in the manner hereinafter set forth by such educational authority or its delegated official, when in the discretion of such educational authority or such delegated official, such employment, use or exhibition of such child will not in the judgment of such educational authority or official, be harmful or undesirable from the point of view of the welfare, development or proper education of such child. Such consent shall not be given unless forty-eight hours' previous notice of the application shall have been served in writing by the applicant for such consent upon the society for the prevention of cruelty to children or other child protective organization, if there be one within the city or school district, as the case may be, and a hearing had thereon if requested by such society or organization within such forty-eight hour period. The duration and extent of consents relating to paragraph b of subdivision one shall be subject to regulations adopted by the authority issuing the same.

4. Application in writing for such consent shall be delivered to the licensing authority by the applicant for such consent at least seventy-two hours prior to the proposed performance, and shall specify the true and stage names of the child, the place and date of its birth, the names and residences of its parents or guardians, the nature, time, duration and number of performances for which permission is sought and the place and character of the proposed exhibition, and, except when the application relates to participation in the performance of a radio or television program or programs, a true and accurate statement in writing setting forth and describing in

detail the entire part to be taken and each and every act and thing to be done and performed by such child, or, when the application relates to participation in the performance of a radio or television program or programs, a general statement describing the part or parts to be taken by such child or the nature of the radio or television series in which such child is to perform. Such application shall be acted upon forthwith, and in no event be delayed in excess of sixty hours after the receipt thereof.

5. The board of education, trustee or trustees may designate in writing one or more public school officials to issue such consents for it and in its name in accordance with regulations to be issued by the commissioner of education.

6. The board of education, trustee or trustees or any public school official designated to issue such consents are hereby authorized to revoke such consents upon the violation of any provisions of this section or of the prescribed rules and regulations regulating the issuance of such consents.

7. The commissioner of education shall have power, subject to the approval thereof by the board of regents, to adopt and prescribe rules and regulations and amendments and repeals thereof relating to whom such power shall be delegated, and the manner of such delegation, and the forms of applications and consents to be used by said local authorities, which rules and regulations shall be so designed that such employment or exhibition of such child shall not be allowed when the same is harmful or undesirable from the point of view of the welfare development or proper education of such child.

8. Any violation of this section shall be a misdemeanor.

3230. EMPLOYMENT OF CHILDREN AS MODELS.

1. It shall be unlawful to employ, use, exhibit or cause to be exhibited a minor under eighteen years of age as a model unless:

- a. a child model work permit has been issued as hereinafter provided; and
- b. such employment, use or exhibition is in accordance with the rules and regulations promulgated by the commissioner of education as hereinafter provided.

2. It shall be unlawful for any parent or guardian of a minor under eighteen years of age to obtain or consent to the employment or exhibition of such minor as a model unless a permit has been issued in accordance with this section.

3. An application for a permit for the employment or exhibition of a minor under eighteen years of age as a model shall be made by such minor or by his parent or guardian on a form prescribed by the commissioner of education and shall contain such matters as the commissioner may determine to be necessary, including the following:

- a. the minor's name, address, date of birth, and if the minor is of school age, the name and address of the school the minor attends and, if the application is made by his parent or guardian of a minor over twelve years of age the consent of such minor;
- b. the name and address of the parent or guardian, and the consent of the parent or guardian to the issuance of the permit;
- c. a certificate from a physician showing that the minor is physically fit to be employed or exhibited as a model. In a city of over one million population such certificate shall be issued by a physician designated by the department of health if the minor is of school age.

4. A child model work permit shall be issued upon application to the superintendent of schools in cities and school districts employing a superintendent of schools and elsewhere upon application to the district superintendent of schools. A superintendent of schools or districts superintendent of schools may, in accordance with regulations of the commissioner of education, designate in writing one or more public school officials to act as certificating officer in his stead.

5. A child model work permit may be issued by the certificating officer if he finds that the employment or exhibition of the minor as a model will not be harmful to his health and welfare, and that, in the case of a minor of school age, the minor's education will not be neglected.

6. A child model work permit:

- a. shall be signed by each person employing, using, or exhibiting the minor prior to the commencement of the minor's employment or exhibition and shall permit the employment, use or exhibition of such minor only when signed by such person;
- b. shall not be valid when attendance for instruction is required in accordance with the education law;
- c. shall terminate one year after the date of issuance;
- d. may be revoked by the certificating officer at any time for good cause.

7. The commissioner of education may promulgate rules and regulations to carry out the provisions of this section. Such rules and regulations shall be designed to protect the health and welfare of child models and to insure that the conditions under which such child models are employed, used or exhibited will not impair their health or welfare.

8. This section shall not apply to the employment, use, or exhibition of a minor under eighteen years of age as a model:

- a. in a television broadcast or program for whom a permit has been issued pursuant to section thirty-two hundred twenty-nine or section thirty-two hundred sixteen-c of this chapter.
- b. by a federal, state or municipal government or political subdivision or agency thereof, or by any corporation, unincorporated association, community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

9. Violation of this section shall be a misdemeanor.

3231. GENERAL PROVISIONS.

1. Certifying officers. Employment certificates, permits and badges shall be issued by the superintendent of schools in cities and school districts employing a superintendent of schools, and elsewhere by the district superintendent of schools. A superintendent of schools, or district superintendent of schools may designate in writing one or more public school officials to act as certifying officers in his stead.

2. Revocation. Employment certificates, permits and badges may be revoked for cause by the superintendent of schools or the district superintendent of schools within their respective jurisdictions.

3. Approval of form and contents. The commissioner of education shall prescribe or approve the form and contents of all certificates, permits, badges, physical examination records, and schooling records required by part one of this article. The form of such certificates, permits and badges shall also be subject to the approval of the industrial commissioner.

3232. COURTS HAVING JURISDICTION.

1. Courts of special sessions and magistrates' courts shall have concurrent jurisdiction with family courts to hear, try and determine charges of violation of the provisions of part one of this article, within their respective jurisdictions. In the counties of Cortland and Westchester and in the city of New York children's courts shall have exclusive original jurisdiction in such proceedings. Notwithstanding other provisions of law, children's courts shall have jurisdiction, for the purposes of part one of this article, of minors under the age of eighteen.

2. A prosecution instituted under the provisions of part one of this article shall be deemed a bar to a prosecution under the labor law based on the same state of facts.

3233. PENALTIES.

Except as otherwise provided, a violation of part one of this article shall be punishable for the first offense by a fine not exceeding ten dollars or ten days' imprisonment; for each subsequent offense by a fine not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment.

A violation of sections thirty-two hundred fifteen, thirty-two hundred twenty-three and thirty-two hundred twenty-four of this article shall be punishable for a first offense by a fine of not less than twenty nor more than fifty dollars; for a second offense by a fine of not less than fifty nor more than two hundred fifty dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a third offense by a fine of not less than two hundred fifty dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

Any person who knowingly makes a false statement in or in relation to any application made for an employment certificate as to any matter required by this chapter to appear in any affidavit, record, transcript or certificate therein provided for, is guilty of a misdemeanor and upon conviction shall be punished, except as in this chapter or in the penal law otherwise provided, for a first offense by a fine of not more than one hundred dollars; for a second offense by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment for a subsequent offense by a fine of not less than three hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

3234. ENFORCEMENT; WITHHOLDING STATE MONEYS BY COMMISSIONERS OF EDUCATION.

1. The commissioner of education shall supervise the enforcement of part one of this article and he may withhold one-half of all public school moneys from any city or district, which, in his judgment, willfully omits and refuses to enforce the provisions of part one of this article, after due notice, so often and so long as such wilful omission and refusal shall, in his judgment, occur, or continue.

2. If the provisions of part one of this article are complied with at any time within one year from the date on which said moneys were withheld, the money so withheld shall be paid over by said commissioner of education to such district or city, otherwise forfeited to the state.

3240. SCHOOL CENSUS IN THE CITIES OF NEW YORK, BUFFALO AND ROCHESTER.

In the cities of New York, Buffalo and Rochester provision shall be made by the board of education for taking a school census in connection with the work of enforcing part one of this article.

3241. SCHOOL CENSUS IN CITIES.

1. The board of education of each city, except in cities having a population of one hundred twenty-five thousand or more, shall constitute a permanent census board in such city. Such board shall, under its regulations, cause a census of the children in its city to be taken and to be amended from day to day, as changes of residence shall occur among persons in such cities within the ages prescribed in subdivision two of this section and as other persons shall come within the ages prescribed therein and as other persons within such ages shall become residents of such cities, so that there shall always be on file with such board a complete census giving the facts and information required in subdivision two of this section.

2. Such census shall include all persons between birth and eighteen years of age and in the case of physically or mentally handicapped children between birth and twenty-one years of age, their names, their respective residences by street and number, the day of the month and the year of their birth, the names of the persons in parental relation to them, such information relating

to physical or mental defects, to illiteracy, to employment and to the enforcement of the law relating to child labor and compulsory education as the education department and the board of education of each such city shall require and also such further information as such board of education shall require.

3. Such board shall report, by name, age and address, to the education department, those children who are blind or deaf and those having serious physical or mental defects.

4. It shall be the duty of persons in parental relation to any person between such ages residing within the limits of any such city to make such reports as the board of education of such city shall require. Such reports shall contain the following information:

- a. Two weeks before any child shall become of the compulsory school age, the name of such child, its residence, the name of the person or persons in parental relation thereto, and the name and location of the school to which such child shall have been or shall be sent as a pupil.
- b. In case a child of compulsory school age shall, for any cause, be removed from one school and sent to another school, or sent to work in accordance with the labor law, all the facts in relation thereto.
- c. In case the residence of a child shall be removed from one police precinct to another police precinct, the new residence and the other facts required in paragraphs a and b of this subdivision.
- d. In case a child between birth and eighteen years of age shall become a resident of such city for the first time, the name, residence and such other facts as the board of education shall require.

3242. SCHOOL CENSUS IN SCHOOL DISTRICTS.

The trustee or board of education of every school district shall annually on the thirtieth day of August cause a census to be taken of all children between birth and eighteen years of age, including all such facts and information as are required in the census provided for in section thirty-two hundred forty-one of this chapter. Such census shall be taken in duplicate in their respective school districts, and one copy thereof filed with the

teacher or principal on the first day of school and the other copy filed with the district superintendent or superintendent on or before the fifteenth day of September. Such census shall include the reports and information required from cities as provided in section thirty-two hundred forty-one. All information regarding a mentally handicapped minor shall be filed with the superintendent of the intermediate school district or board of co-operative educational services of which said district may be a part.

3243. PENALTY FOR WITHHOLDING INFORMATION.

A parent, guardian or other person having under his control or charge of a child between birth and eighteen years of age who withholds or refuses to give information in his possession relating to such child and required under part two of this article, or any such parent, guardian or other person who gives false information in relation thereto, shall be liable to and punished by a fine not exceeding twenty dollars or by imprisonment not exceeding thirty days.

(3604.)

7. No district shall be entitled to any portion of such school moneys on such apportionment unless the report of the trustees or board of education for the preceding school year shall show that the public schools were actually in session in the district and taught by a qualified teacher or by successive qualified teachers or by qualified teachers for not less than one hundred eighty days. The apportionment based on the average daily attendance, the weighted average daily attendance of a district or the approved expenditures of the district, as the case may be, shall be reduced by one-hundred eightieth thereof for each day less than one hundred eighty days that the schools of the district were actually in session, except that the commissioner may disregard such reduction, up to five days, in the apportionment of public money, if he finds that the schools of the district were not in session for one hundred eighty days because of extraordinarily adverse weather conditions, impairment of heating facilities, insufficiency of water supply, shortage of fuel, or the destruction of a school building, and if, further, the commissioner finds that such district cannot make up such days of instruction during the school year.

8. No school shall be in session on a Saturday or a legal holiday, except general election day, Washington's birthday and Lincoln's birthday, and except that driver education classes may be conducted on a Saturday. A deficiency not exceeding six days during any school year caused by teachers' attendance upon teachers' conferences held by district superintendents of schools within a county and upon meetings of the New York State Teachers' Association, shall be excused by the commissioner of education. Similarly, a deficiency not exceeding three days during any school year caused by teachers' attendance upon conferences held by superintendents of schools of city school districts or other school districts employing superintendents of schools shall be excused by the commissioner.

COMMISSIONERS REGULATIONS

TEACHERS CERTIFICATE

80.29 Attendance teacher

(a) Permanent certificate

(1) Preparation. The candidate shall have completed a 4-year curriculum leading to the baccalaureate degree (or approved equivalent preparation). In addition the candidate shall have completed 30 semester hours in approved undergraduate or graduate courses. These courses shall include the organization and co-ordination of pupil personnel services, community organization, counseling techniques or casework, child growth and development, education, education law, and supervised fieldwork and practice in attendance procedures in public schools.

(2) Experience. The candidate shall have completed 2 years' experience in teaching and/or social work or equivalent experience in fields related to attendance.

(b) Provisional certificate

(1) Preparation. The candidate shall have completed the 4-year curriculum leading to the baccalaureate degree (or approved equivalent preparation). In addition the candidate shall have completed 12 semester hours in approved undergraduate or graduate courses. The courses shall be selected from courses in organization and co-ordination of pupil personnel services, community organization, counseling techniques or casework, child growth and development, education, education law, and supervised fieldwork and practice in attendance procedures in public schools.

(2) Time validity. The provisional certificate shall be valid for 5 years.

(c) Provisional certificate under waiver

(1) Experience. The candidate shall have completed 3 years of satisfactory service in attendance work in the public schools of the State of New York prior to the effective date of these regulations and be recommended for the provisional certificate under waiver by his superintendent of schools.

(2) Preparation. The candidate shall have completed 30 semester hours in approved courses prior to the issuance of the permanent certificate but shall not necessarily have completed the baccalaureate degree.

(3) Time validity. The provisional certificate under waiver shall be valid for 5 years.

EXEMPTIONS FROM ATTENDANCE

101.1 Definitions

The following shall be qualified examiners for the purpose of this article:

(a) For making examinations for physical disability, school physicians, and other physicians qualified to practice in New York State;

(b) For making examinations for severe mental retardation, or mental or emotional disorder;

(1) Psychiatrists certified by the Department of Mental Hygiene;

(2) Psychologists certified by the Department of Mental Hygiene, or school psychologists holding certificates issued by the State Education Department, or other psychologists certified by such department;

(3) State-operated mental health clinics, or mental health clinics licensed by the New York State Department of Mental Hygiene.

101.2 Exemption from attendance

Minors between the ages of 6 and 16 years are required to attend upon instruction unless exempted from such attendance in accordance with the following regulations:

(a) The sole trustee, the board of trustees, or the board of education of any school district may cause a minor between the ages of 5 and 21 years, who is in attendance or who is required to be in attendance, to be examined by qualified physicians, psychiatrists, or psychologists as hereinafter provided and may, upon their written recommendation, which shall be kept on file, exempt or exclude such minors from attendance for such period as the recommendation may determine, upon approval of the State Education Department.

101.3 Certificate of exemption

1. Certificates of exemption shall be issued because of:

- a. Physical disability; or
- b. Severe mental retardation; or
- c. Mental or emotional disorders.

101.4 Examination and recommendation

(a) Examination and recommendation for exemption shall be made by the persons enumerated in section 101.1 as follows:

(1) Physical disability

(i) For exemption because of physical disability for a period of not less than 3 months but not to exceed 1 year, such examination shall be made by two physicians, one of whom shall be the school physician. Such exemptions, in accordance with the best judgment of the examining physicians and the special circumstances of the case, may be recommended initially for a 3-month, 6-month, 9-month, or 12-month period.

(ii) Renewal of an exemption, because of physical disability, beyond the designated 3-, 6-, 9-, or 12-month period for physical disability shall be upon written recommendation after a thorough examination, by two physicians, one of whom shall be the school physician.

(2) Severe mental retardation

(i) For exemption of those children who because of severe mental retardation or deficiency are unable to benefit from instruction for a period of not less than 6 months but not to exceed 2 years, such examination shall be made by a qualified psychologist, or by a qualified psychologist and a qualified psychiatrist, or by an approved clinic, but in any case the study shall include a careful physical examination by the school physician and any physical handicaps shall be noted.

(ii) Renewal of an exemption of those children who because of severe mental retardation or deficiency are unable to benefit from instruction beyond the period of the original exemption shall be upon the written recommendation of a qualified psychologist, or by a qualified psychologist and a qualified psychiatrist, or by an approved clinic, after a thorough examination, which shall follow the general pattern of the examination made for the original exemption. Further examinations shall be made prior to the termination of the original exemption period or subsequent to the termination thereof upon the recommendation of the examiner, if in his judgment such re-examination is desirable. An exemption,

because of mental disability, will be accepted as permanent if, at the end of 2 years and examination, following the pattern of the original examination, indicates the condition to be permanent and a written recommendation for a permanent exemption is made by the examiner. Exemptions will not become permanent until the written recommendation made by the examiner is approved by the Education Department. When approved, certification of all permanent exemptions shall be kept in an active file as long as the exempted minors are within the compulsory school age limits and may be subject to review in any instance where exceptional circumstances would seem to justify such review.

(3) Mental or emotional disorder

(i) For exemption because of a mental or emotional disorder for a period of not to exceed 6 months, such examination shall be made by a qualified psychiatrist and a qualified psychologist or by an approved clinic. In any case, the study shall include a careful physical examination by the school physician and any physical handicaps shall be noted.

(ii) Renewal of an exemption because of a mental or emotional disorder beyond the period of the original exemption shall be upon the written recommendation after a thorough examination by a qualified psychiatrist and a qualified psychologist or by an approved clinic, and shall be followed by periodic examinations as necessary in the judgment of the examining psychiatrist or clinic. Said written recommendation shall include a summary, by the psychiatrist or the clinic, of the child's mental status.

101.5 Notices

1. Notice of the exemption or exclusion of any minor between 5 and 21 years of age shall be sent to the Bureau of School Social Services within 10 days of the issuance of exemption certificate. A similar notice shall be sent to the parent or guardian.

101.6 Transfers

1. If a presently exempted child moves to another school district, copies of the exemption forms shall be sent to the superintendent of the receiving district and the Bureau of School Social Services shall be notified.

101.7 Pupil attendance record-keeping

(a) Definitions

When used in this section, the following terms shall have the respective meanings hereinafter set forth or indicated:

(1) Pupil. A child enrolled in any public school in the State of New York.

(2) Register of attendance. Any book, card, or other form used to keep a record or list or account of attendance, absence and tardiness of a pupil, the form of which shall have been approved by the Commissioner of Education.

(3) Teacher. A member of the teaching and supervisory staff of a school district of the State.

(4) Employee other than a teacher. A suitable person other than a teacher employed by a school district of the State in a position appropriate for the keeping of records.

b. The record of each pupil's attendance, absence, and tardiness shall be kept by each school district in a register of attendance in a manner approved by the Commissioner of Education.

c. The register of attendance shall set forth at least the following for each pupil:

- (1) name;
- (2) date of birth;
- (3) full names of parents or guardians;
- (4) address.

d. All entries in a register of attendance shall be made either by a teacher or by an employee other than a teacher designated by the board of education.

e. The board of education shall designate a teacher to supervise the keeping of the register of attendance where an employee other than a teacher is designated by the board of education as the person to make entries in the register of attendance.

f. The entries in the register of attendance shall be verified by the oath of affirmation of the person making the entries in the register of attendance.

RELIGIOUS OBSERVANCE AND EDUCATION

109.2 Absence from school

(a) Absence of a pupil from school during school hours for religious observance and education to be had outside the school building and grounds will be excused upon the request in writing signed by the parent or guardian of the pupil.

(b) The courses in religious observance and education must be maintained and operated by or under the control of duly constituted religious bodies.

(c) Pupils must be registered for the courses and a copy of the registration filed with the local public school authorities.

(d) Reports of attendance of pupils upon such courses shall be filed with the principal or teacher at the end of each week.

(e) Such absence shall be for not more than 1 hour each week at the close of either the morning or afternoon session or both at a time to be fixed by the local school authorities, provided that the time designated for each separate unit, the primary grades (K-3), intermediate grades (4-6), junior high school grades (7-9), and senior high school grades (10-12) shall be the same for all pupils in that unit in each separate school.

(f) In the event that more than one school for religious observance and education is maintained in any district, the hours for absence in each particular public elementary or secondary school unit in such district shall be the same for all such religious schools.

CONSENT FOR THE EMPLOYMENT OF CHILDREN AS ENTERTAINERS AND IN EXHIBITIONS

190.1 Issuance of consents

(a) The school authorities may designate the superintendent of schools or district superintendent of schools to issue consents or permits for child performances. The issuing authority shall be guided by the provisions of section 3229 of the Education Law.

(b) Applications for consents shall be duplicate:

(1) One copy shall be filed with the issuing authority;

(2) The other copy shall be sent to the society for the prevention of cruelty to children or other child protective organization in the area.

(c) Consents may be issued only when an examination by the school medical officer shows the minor to be in proper physical condition for the performance. An examination shall be required for each consent issued.

(d) The tenure of each consent shall be for 6 months but shall become invalid and a new consent shall be required if the performance changes materially in character.

(e) A consent shall be revoked by the issuing authority upon evidence that the statutory requirements or the provisions of these regulations have been violated.

(f) A report of all permits issued or revoked shall be immediately forwarded to the Commissioner of Education.

190.2 Employment or exhibition of children as models

(a) A minor employed, used, exhibited, or caused to be exhibited as a model shall be accompanied by the parent or guardian of such minor or by an adult designated in writing by such parent or guardian provided that in relation to a minor 15 years of age or under the employer of the minor may not be so designated by the parent or guardian.

(b) No minor shall be employed, used, exhibited, or caused to be exhibited as a model during the hours he is required to be in attendance in the school in which he is enrolled.

(c) (1) No minor under 7 years of age shall be employed, used, exhibited, or caused to be exhibited as a model for more than 2 hours in any 1 day and not more than 10 hours in any 1 week nor shall such minor be so employed, used, exhibited, or caused to be exhibited during the hours of 6 p.m. to 9 a.m.

(2) (i) No minor 7 years of age through 13 years of age, in any week during which the school said minor attends is in session, shall be employed, used, exhibited, or caused to be exhibited as a model more than 3 hours in any 1 day in which such school is in session or 4 hours in any 1 day in which such school is not in session but not more than 18 hours in any such week.

(ii) No minor 7 years of age through 13 years of age, in any week during which the school said minor attends is not in session, shall be employed, used, exhibited, or caused to be exhibited as a model more than 4 hours in any 1 day but not more than 20 hours in any such week.

(iii) No such minor shall be employed, used, exhibited, or caused to be exhibited between the hours of 6 p.m. and 9 a.m.

(3) (i) No minor 14 or 15 years of age, in any week during which the school said minor attends is in session, shall be employed, used, exhibited, or caused to be exhibited as a model more than 3 hours in any 1 day in which such school is in session or 8 hours in any 1 day in which such school is not in session, but not more than 23 hours in any such week.

(ii) No minor 14 or 15 years of age, in any week during which the school said minor attends is not in session, shall be employed, used, exhibited, or caused to be exhibited as a model more than 8 hours in any 1 day but not more than 40 hours in any such week.

(iii) No such minor shall be employed, used, exhibited, or caused to be exhibited between the hours of 6 p.m. and 9 a.m.

(4) (i) No minor 16 or 17 years of age, in any week during which the school said minor attends is in session, shall be employed, used, exhibited, or caused to be exhibited as a model more than 4 hours in any 1 day in which such school is in session or 8 hours of any 1 day in which such school is not in session but not more than 28 hours in any such week.

(ii) No minor 16 or 17 years of age, in any week during which the school said minor attends is not in session, shall be employed, used, exhibited, or caused to be exhibited as a model more than 8 hours of any 1 day but not more than 48 hours in any such week.

(iii) No male minor 16 or 17 years of age shall be employed, used, exhibited, or caused to be exhibited as a model between 12 o'clock midnight and 6 a.m. and no such female minor shall be so employed between 10 p.m. and 7 a.m.

(d) Child model work permits shall accompany each minor employed, used, exhibited, or caused to be exhibited as a model and each person employing, using, or exhibiting the minor shall at the beginning and at the completion of such employment, use, or exhibition for each day indicate the exact hours of such employment, use or exhibition and shall in addition indicate the total hours of such employment, use or exhibition for such day.

(e) The certificate of physical fitness issued to each minor employed, used, exhibited, or caused to be exhibited as a child model shall, in the case of each such minor who is in attendance at a school, be made by the medical inspector charged with the duty of making physical examinations of all school children and for each such minor not in attendance at a school shall be made by a physician licensed to practice medicine in the State of New York except that in a city of over 1,000,000 population such certificate shall be issued only by a physician designated by the Department of Health if the minor is of school age.

(f) A child model work permit shall be issued by the superintendent of schools in cities and school districts employing a superintendent of schools and elsewhere by the district superintendent of schools. A superintendent of schools or district superintendent of schools may designate in writing one or more public school officials to act as certifying officers in his stead.

(g) A child model work permit may be revoked by the certifying officer at any time for any violation of law or of these regulations or for any other good cause.

191.1 Casual employment for which employment certificate is not required

(a) Yard work and household chores in and about a residence or premises of a nonprofit, noncommercial organization for which an employment certificate is not required under the provisions of subdivision 7 of section 3215 of the Education Law and section 131 of the Labor Law shall include the following:

- (1) Mowing grass by hand-mowers;
- (2) Weeding;
- (3) Raking leaves;
- (4) Watering lawns;
- (5) Shoveling snow;
- (6) Sweeping walks;
- (7) Washing dishes and other light kitchen work;
- (8) Other similar light household chores;
- (9) Acting as companion to younger children;
- (10) Caring for dogs and other pets which have no known vicious propensities; and
- (11) Acting as guides and other light housekeeping duties in hospitals and other noncommercial institutions.

RELATED LAWS *

- Article 8 - Section 100 - (Alcoholic Beverage Control Law) -
Employment of minors
- Article 10 - Section 1012 - (Family Court Act) Protection of
Abused Children
- Article 19 - Section 902 - Employment of medical inspectors
(school physician)
- Article 19 - Section 904 - Examinations by medical inspectors
(school physician)
- Article 21 - Section 2164 - (Public Health Law) - Immunization
- Article 51 - Section 2503 - Powers and duties of board of education
- Article 51 - Section 2508 and 2566 - Powers and duties of superintendent
of schools
- Article 51 - Section 2570 - Bureau of Compulsory Education (N.Y.C.)
- Article 61 - Section 3024 - Teachers responsible for record books
- Article 61 - Section 3025 - Verification of school register
- Article 73 - Section 2604 - Apportionment
Section 3604 - School Calendar on Legal Holidays
- Article 89 - Sections 4401-4407 - Handicapped children
- Article 93 - Section 4601 - Part-time schools
- Article 93 - Section 4608 - School to employment program
(See Commissioners Regulations 141.4)

* Articles 8, 10 and 21 are not Education Law

INDEX OF LAWS AND COMMISSIONERS REGULATIONS
CONCERNING ATTENDANCE

References are to page numbers

ABSENCE

- For religious education, 9, 42
- For religious observance, 9, 42

ATTENDANCE

- Age requirements for Compulsory Attendance, 6
- Amount and character of, 9
- Elsewhere than public school, 9
- Exceptions to, 6
- Exemptions from, 8, 39
- Upon evening instruction, 7
- Upon full-time instruction, 6
- Upon part-time instruction, 6

ATTENDANCE RECORDS

- Affidavit, 42
- Duties of Principals, 10
- Inspection of, 10
- Persons who shall keep, 10
- Presumptive evidence, 10
- Procedures for keeping, 10
- Required information, 42

ATTENDANCE TEACHERS AND SUPERVISORS

- Age of, 13
- Appointment of, 12
- Certification of,
 - permanent, 38
 - provisional, 38
 - waiver of provisional, 38
- Duties, 14
- Enforcement of law by, 12, 13
- Peace officer status, 15
- Powers of, 14
- Right of arrest, 14
- Right of entry, 14

CENSUS

- Duties of persons in parental relation, 36
- In cities of over 125,000, 35
- In cities and villages under 125,000, 35
- Of physically and mentally handicapped children, 35

INDEX

CHILDREN

- Definition and duties of parental relation, 11
- Delinquent, 15, 16
- Exemption from attendance, 8, 39-41
- Handicapped, 35-37
- Indigent, 9
- Use as entertainers and models, 29-31, 43-45

EMPLOYMENT OF MINORS

- Casual, 17, 46
- Certificating officer, 33
- Certificate of physical fitness, 23, 24
- Consent for employment as entertainers, 29-31, 43
- Employers duties and legal requirements, 25
- Procedures for issuance, 22
- Revocation of certificate, 33
- Special employment certificate, 26
- Types of certificates, 19, 20
 - child models, 31-33, 44, 45
 - farm work permit, 26
 - newspaper carrier, 28
 - street trades, 27
 - student non-factory, 19
 - student general, 19
 - full-time, 20
 - limited, 23
 - New York City Certificate of Eligibility, 18
- Types of employment prohibited, 17, 18, 29-31
- Use of children as entertainers, 20-22

EXEMPTION FROM ATTENDANCE

- Certificates
 - for mental or emotional disorders, 40, 41
 - for physical disability, 40, 41
 - for severe mental retardation, 40, 41
- Notice of exemption, 41
- Procedures for exempting children, 8, 39-41
- Qualifications of examiner for exemption, 40, 41
- Renewal of exemption certificate, 40, 41
- Transfer of exempted child, 41

INSTRUCTION REQUIRED

- Bilingual, 3, 4
- Courses of study, 4
- Language of instruction, 3
- Length of instruction, 5
- Quality of instruction, 3
- Texts, 3

INDEX

PARENTAL RELATION

- compliance with laws on attendance, 11, 12
- consent for employment certification, 23
- definition of, 11
- duties of, 11
- exception to duties, 12
- parental schools, 15
- penalty for withholding census information, 37
- procedure in court on school, delinquent, 16
- proof of minors literacy, 11
- right to suspension hearing of minor, 16, 17

RESIDENCY

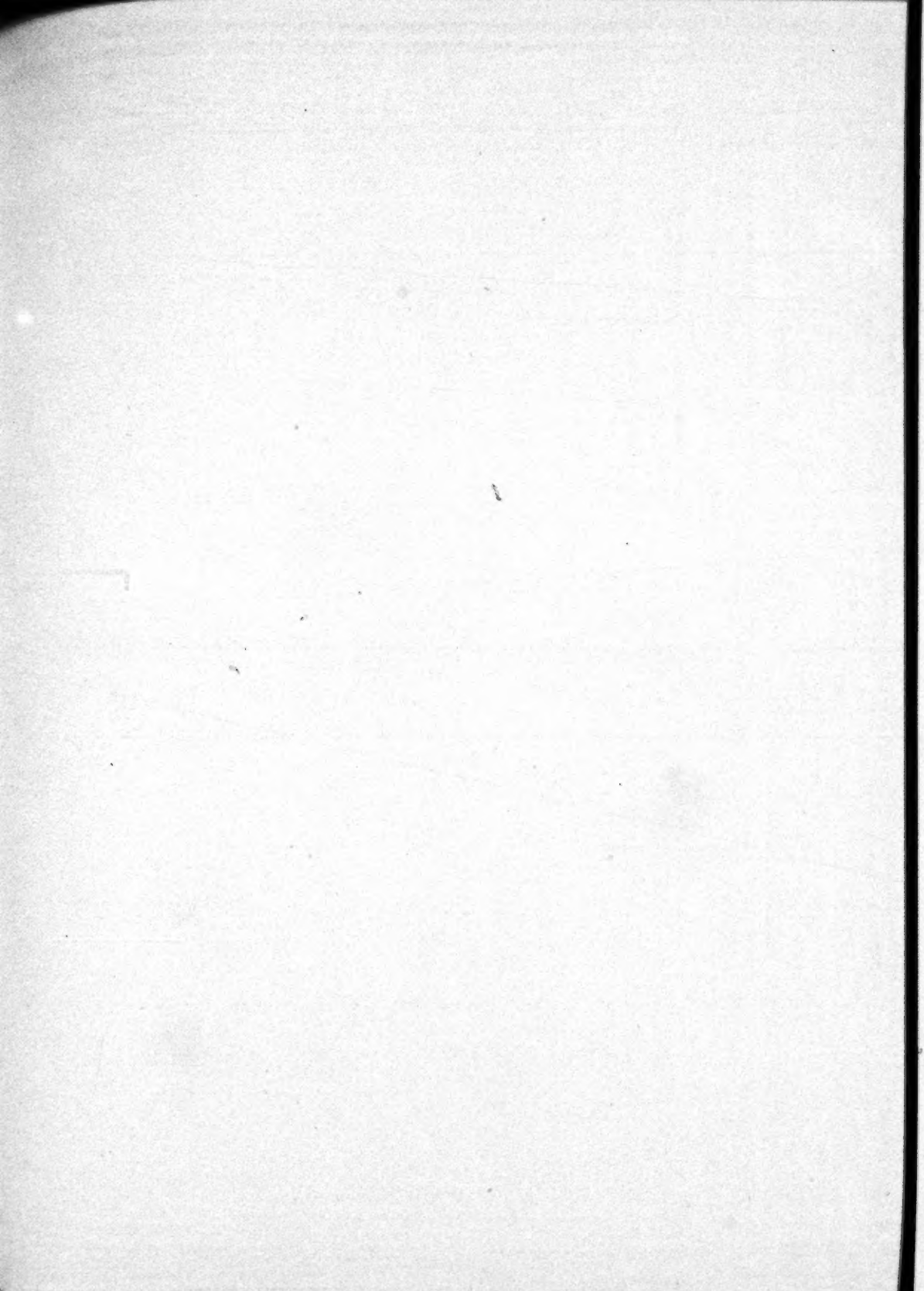
- definition of, 1
- definition of nonresident, 1
- residency of children in free family homes, 2
- residency of children in institutions, 1
- residency when district line intersects dwelling, 2
- tuition for nonresidents, 1

SCHOOL

- for delinquents, 15
- parental, 15
- special day school, 15
- school sessions,
 - length of, 5
 - holidays, 37

SUSPENSION

- Grounds for
 - disorderly, 16
 - endangers others, 16
 - feebleminded, 16
 - insubordinate, 16
- Hearings
 - formal, 16, 17
 - informal, 17
- Length of suspension, 16
- Procedures for suspension, 16
- Procedures after suspension, 17
- Right of counsel, 16, 17



Thomas W. Heath

Nonpublic Schools Mandated Services Cost Analysis Data

This report entitled, "Cost Analysis for Mandated Services" is divided into three sections. Each segment represents the professional efforts of three research consultants operating independently.

MODE I (ORANGE), Mr. Maurice G. Osborne

Former Assistant Commissioner for Educational Finance & Management Services

MODE II (GREEN), Dr. Earl F. Soper

Former Superintendent of Schools at Long Beach and Kingston

MODE III (BLUE), Dr. John L. Miller

Former Superintendent of Schools at Great Neck, Past President of the American Association of School Administrators

ON THE BASIS OF THE MATERIAL HEREIN PRESENTED, IT IS EVIDENT THAT THE \$28,000,000 APPORTIONED AMOUNT SPECIFIED WITHIN CHAPTER 138 OF THE LAWS OF 1970 IS JUSTIFIED.

IN ADDITION it also appears that nonpublic schools are currently providing considerably more in mandated services than they are receiving in financial aid.

ALTHOUGH the cost figures in each of the three modes could be used to authenticate a "substantially higher" apportionment allotment, it should be noted that inflationary variables enter the picture to an increasing degree as the cost figures move significantly beyond the per pupil amount specified in the law.

ACCORDINGLY, it would require further research with larger geographic parameters to either affirm or deny the reliability and validity of those areas of this report which project estimates "substantially" beyond the twenty-eight million dollar figure.

THEREFORE, this report should be considered exploratory and tentative---pending a more precise definition of terms and a more extensive population sample.

COST ANALYSIS DATA

Nonpublic Schools Mandated Services

(CONFIDENTIAL)

Exhibit D

MODE IPAGE

Direct Cost Catholic High	\$ 84,033.00	Orange - P. 15
Direct & Indirect Costs Catholic High	120,305.00	Orange - P. 19
Total Aid Received under Chapter 138	(\$ 77,878.80)	
Direct Cost St. Thomas Elem.	10,056.00	Orange - P. 24
Direct & Indirect Costs St. Thomas Elem.	15,221.00	Orange - P. 26
Total Aid Received under Chapter 138	(\$ 9,232.56)	

.....

MODE IIPAGE

Summary Holy Trinity High	\$ 232.90	Green - P. 14
Summary Chaminade High	595.94	Green - P. 22
High School Formula under Chapter 138	(\$ 45.00)	
Summary Corpus Christi Elem.	77.56	Green - P. 29
Summary Holy Family Elem.	86.57	Green - P. 40
Elementary School Formula under Chapter 138	(\$ 27.00)	

.....

MODE IIIPAGE

Average per pupil cost for mandated services aid is \$82.50 a year as contrasted with the Chapter 138 formula of \$27.00, elementary level.	Blue - P. 2
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.....

CONCLUSION

Green - P. 46

MEMORANDUM

TO :

FROM :

SUBJECT :

RE :

DATE :

BY :

1. [Illegible]

2. [Illegible]

3. [Illegible]

4. [Illegible]

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23. [Illegible]

24. [Illegible]

25. [Illegible]

26. [Illegible]

27. [Illegible]

MODE I

ANALYSIS

OF

EXPENDITURES

FOR

MANDATED SERVICES

IN

NONPUBLIC SCHOOLS

(Chapter 138 of the Laws of 1970)

COPY BOUND CLOSE IN CENTER

COPY BOUND CLOSE TO EDGE

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT

Dr. Thomas D. Sheldon

Date: March 1, 1971

Thomas W. Heath

Subject: Nonpublic School Cost Analysis Design

The cost analysis for the "Mandated Services Legislation" has been designed according to three modes--each in a different geographic area and each with different research components:

Mode I - A CASE STUDY approach - "in-depth" type
with Maurice G. Osborne
functioning as a SED consultant

NONPUBLIC

(Catholic)

Area: "Mid-state" (Small city)

Troy: 1. Catholic High

Albany: 2. St. Thomas Elem.

Mode II - A FIELD SURVEY approach - "paired schools" type
with Earl F. Soper
functioning as a SED consultant

PUBLIC - NONPUBLIC

(Catholic)

Area: "Down-state" (Suburban)

Hicksville: 1. Hicksville High
2. Holy Trinity High
3. Dutch Lane Elem.
4. Holy Family Elem.

Mineola: 5. Mineola High
6. Chaminade High
7. Willis Avenue Elem.
8. Corpus Christi Elem.

NOTE:

(Public - Nonpublic: Comparative data analysis - public schools utilized as the "control group" and Catholic schools utilized as the "experimental group.")

Mode III - A FIELD SURVEY approach - "individual sample" type
with John L. Miller
functioning as a Hofstra University consultant

NONPUBLIC

(Multi-denominational)

Area: "Down-state" (Large city)

New York City 1. Grace Lutheran Elem.
2. Woodhull Episcopal Elem.
3. Immaculate Conception Elem.
4. St. Catherine Elem.
5. Hebrew Day School Elem.

THE STATE OF TEXAS
COUNTY OF DALLAS
I, the undersigned, Clerk of the County of Dallas, Texas, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County of Dallas, Texas.

WITNESSED my hand and the seal of the County of Dallas, Texas, this 1st day of January, 1901.

CLERK OF THE COUNTY OF DALLAS, TEXAS

Attest: My hand and the seal of the County of Dallas, Texas, this 1st day of January, 1901.

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CLERK OF THE COUNTY OF DALLAS, TEXAS

INTRODUCTION

This Study was initiated by the State Education Department to determine the annual costs in a relatively large nonpublic high school and a nonpublic average sized elementary school of those mandated services identified in Chapter 138 of the Laws of 1970. Such mandated services are as follows:

- I. Examination and Inspection ✓
- II. Maintenance of Records of Pupil Enrollment ✓
- III. Maintenance of Pupil Health Records ✓
- IV. Recording of Personnel Qualifications and Characteristics
- V. Preparation and Submission to the State Of Other Required Reports such as:
 - a. Secondary School Report (Private Schools)
 - b. Report of Nonpublic Schools (Basic Educational Data Systems)

The two schools which were studied were Catholic Central High School in Lansingburgh, Rensselaer County and St. Thomas Elementary School in Delmar, Albany County. Throughout this report Catholic Central High School will be referred to as CCHS and St. Thomas Elementary School as St. Thomas.

The enrollment as of September 1970 in CCHS was 1769 and in St. Thomas it was 336. The enrollments in February 1971 were 1742 and 330 respectively.

This study was initiated by the State Education Department in 1950 as a result of a request from the State Board of Education for a study of the state of the public schools in New York State. The study was conducted by the State Education Department and the State Board of Education. The study was completed in 1951 and the results were published in 1952.

I. Background and Introduction

A. Maintenance of Schools of Public Education

B. Maintenance of Public Health Services

C. Maintenance of Educational Facilities and Equipment

D. Maintenance of Schools of Public Health Services

E. Maintenance of Schools of Public Health Services

F. Maintenance of Schools of Public Health Services

G. Maintenance of Schools of Public Health Services

H. Maintenance of Schools of Public Health Services

I. Maintenance of Schools of Public Health Services

J. Maintenance of Schools of Public Health Services

K. Maintenance of Schools of Public Health Services

L. Maintenance of Schools of Public Health Services

M. Maintenance of Schools of Public Health Services

N. Maintenance of Schools of Public Health Services

O. Maintenance of Schools of Public Health Services

P. Maintenance of Schools of Public Health Services

Q. Maintenance of Schools of Public Health Services

R. Maintenance of Schools of Public Health Services

S. Maintenance of Schools of Public Health Services

T. Maintenance of Schools of Public Health Services

U. Maintenance of Schools of Public Health Services

V. Maintenance of Schools of Public Health Services

W. Maintenance of Schools of Public Health Services

X. Maintenance of Schools of Public Health Services

Y. Maintenance of Schools of Public Health Services

PROCEDURE

The procedure used in making the Study was to contact the Supervising Principal and the remainder of the administrative staff. This was to acquaint the staff with the purpose of the Study and to solicit their assistance in the acquisition of data as well as making appointments with members of the teaching staff. To a large extent all teachers were contacted either in small groups or individually. One questionnaire was used to secure detailed information in the area of examinations (testing pupils). The records of the Central Office were used in compiling data not available through the teaching staff.

CCHS was visited first. The following sections of this report will provide the details of time used and the cost of same. Needless to say, certain assumptions had to be made and some costs had to be averaged. While a time - cost study of this nature cannot arrive at an absolutely accurate amount of time consumed in performing functions in detail or determine the exact cost in dollars, it is felt the composite cost figures come very close to the actual cost. It is pointed out that the composite cost or summary figures not only include actual dollar costs but also costs in terms of kind and benefits as well as indirect costs.

CATHOLIC CENTRAL HIGH SCHOOL

The staff of CCHS is as follows:

Administrative, Supervisory, Teaching and Clerical

Supervising Principal

Vice Principal - Student Affairs

Vice Principal - Administration

Guidance - Full Time

Guidance - Full Time

Guidance - Part Time

Guidance - Part Time

Librarians - Full Time (2)

Attendance Supervisor

Nurse

Classroom Teachers

Sisters 42

Priests 9

Lay 30

Total 81 (68 have homerooms)

Secretary - Guidance

Tuition Clerk

Store Manager - Half Time

Professional: Ratio to Pupils 1769

Overall Ratio 19.33

Administration Ratio 176.9

Administration Ratio Per 1,000
Students 5.6

Pupil Teacher Ratio 22.

Administrative, Instructional, Teaching and Classroom

Instructional Services

Classroom Management - Academic Affairs

Classroom Management - Academic Affairs

Classroom Management - Academic Affairs

Classroom Management - Academic Affairs

Classroom Management - Academic Affairs

Classroom Management - Academic Affairs

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Classroom Management - Academic Affairs

1. EXAMINATION AND INSPECTION

The following is a listing of the various examinations used at CCHS.

1. Teacher examinations, oral and written, prepared by teachers or taken from prepared materials.
2. Entrance examinations conducted annually for potential freshmen entrants the following Fall. This examination is required of all potential freshmen. It largely determines whether or not they are admitted to CCHS. The examination is secured through Princeton and is paid for by each student.
3. New York State Regents Scholarship Examinations are given in October of each year.
4. January and June Regents examinations.
5. SRA tests - juniors only.
6. Otis I Q Tests - freshmen only.
7. Kuder Preference Test.
8. Diocesan examinations.

The details regarding costs follow:

1. TEACHER EXAMINATIONS

<u>Subject</u>	<u>Cost</u>
Art	\$ 1,500
Business	8,700
English	12,050
Language	6,640
Math	4,460

The following is a listing of the various activities...

Teacher Organization, and will be, provided by...

These are prepared in...

Teacher Organization conducted annually at...

entire the following table. This organization is...

referred to as the "Teacher Organization" and...

advised in 1961. The organization is...

and is held for each year.

For 1961, the various activities...

Summary of each year.

1961 and 1962 activities...

1961 and 1962 activities...

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1961 and 1962 activities...

<u>Subject</u>	<u>Cost</u>
Music	\$ 1,898
Religion	6,810
Science	13,324
Social Studies	9,370
	<u>\$64,752</u> <u>\$64,752</u>

2. ENTRANCE EXAMINATIONS

There are approximately 500 potential freshmen each year who take the entrance exam. In February of 1971, 490 took the exam. Twenty-seven teachers were assigned to supervise the exam. The time spent by each teacher in the examining room is from 8:30 a.m. to 1:00 p.m.

Exam papers are sent to the Central Office where they are checked for accuracy of count, bundled and shipped to Princeton. Printouts are prepared by Princeton and sent to CCHS as follows:

1. Alphabetical list.
2. High and low scores.
3. Individual home school list.

The latter is sent to the home school and the home school is asked to make recommendations based on the students' history in the home school.

The Supervising Principal and guidance personnel at CCHS study alphabetical and high - low lists along with recommendations, select a number of possible students for entry in the Fall and notify pupils and home schools regarding acceptance or rejection. Due to the fact that freshman admission is largely an administrative problem, the Supervisory Principal and, in a number of instances,

the guidance people spend a great deal of time arranging meetings with parents and students to straighten out problems. The examination results require careful scrutiny on the part of the administration in order to avoid difficulties with disappointed parents and students.

Personnel:

Administration	\$200.00
Teachers	285.00
Clerical	15.00
Miscellaneous	<u>10.00</u>
Total	\$510.00 \$510 00

3. NEW YORK STATE REGENTS SCHOLARSHIP EXAMINATIONS

It is general practice for all seniors to take the Scholarship Exam. There is no charge for the exam forms and all correcting is done at the State level. Last Fall, 345 seniors took the exam. The time required is seven hours in one day. Fifteen proctors were assigned.

Personnel:

15 proctors x 7 hours x \$1.65/hr.	\$170.00
Miscellaneous	<u>20.00</u>
Total	\$190 00\$190.00

4. JANUARY AND JUNE REGENTS EXAMINATIONS

The number of teachers assigned to January and June Regents Exams are 7 and 88 respectively. There is no direct cost for the examination

the following people spent a great deal of time working on the
 with parents and children in connection with the program. The
 examination of the records of the children on the part of a
 administration is given in the following distribution with disapproval
 parents and children.

Expenditures	
Administration	\$1,000.00
Salaries	\$250.00
Travel	\$10.00
Supplies	\$10.00
Other	\$10.00
Total	\$1,380.00

NEW YORK STATE DEPARTMENT OF EDUCATION

It is requested that the following be included in the report
 of the Department of Education for the year ending June 30, 1934.
 The following is a list of the names of the children who
 were in the State Department of Education for the year ending
 June 30, 1934. The names are listed in alphabetical order.

Expenditures	
Administration	\$1,000.00
Salaries	\$250.00
Travel	\$10.00
Supplies	\$10.00
Other	\$10.00
Total	\$1,380.00

NEW YORK STATE DEPARTMENT OF EDUCATION

The following is a list of the names of the children who
 were in the State Department of Education for the year ending
 June 30, 1934. The names are listed in alphabetical order.

forms. There is an indirect cost for assembling, sorting, recording, packaging and shipping. Time beyond the formal proctoring is spent in the marking of the exams. In January 1971, 118 papers were written and in June 1970, 2538 papers were written.

Personnel:

Administration	\$	50.00	
Teachers: Jan. 70 hrs.*		140.00	
June 880 hrs.*		1,760.00	
Miscellaneous		<u>100.00</u>	
Total	\$	2,050.00 \$2,050.00

*\$2.00 per hour

5. SRA TESTS

Juniors Only

Twenty proctors were assigned to the test which was scheduled for one hour. The test forms cost \$252.00. Additional time was required of the proctors in reviewing, assembling and recording.

Personnel:

	<u>Hours</u>	<u>Total</u>
20 teachers - 1 hr each*	20	\$ 32.00
Additional Time	20	32.00
Costs of Tests		<u>252.00</u>
Total		\$ 316.00... \$316.00

*\$1.615 per hour

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2. second is the fact that the
3. third is the fact that the
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6. sixth is the fact that the
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10. tenth is the fact that the

100.00

RECEIVED
JAN 10 1964
U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C.

[illegible]

6. OTIS I Q TEST

Freshmen Only

Twenty proctors were assigned to the test which was scheduled for one hour. The test forms cost \$150. Additional time was required of the proctors in reviewing, assembling and recording.

Personnel:

	<u>Hours</u>	<u>Total</u>
20 teachers - 1 hr. each	20	\$ 32.00
Additional Time	20	33.00
Cost of Tests		<u>150.00</u>
Total		\$ 215.00 ..\$215.00

7. KUDER PREFERENCE TESTS

This test is given annually primarily on a volunteer basis to about 150 students. Because of the nature of the test, little if any, supervision is needed and scoring takes about 30 minutes for each test. Including the cost of the tests at \$200, the total cost is estimated at \$400. \$400

8. DIOCESAN EXAMINATIONS

These examinations are given each June to ninth and tenth grade students. The subjects covered are Social Studies, English - nine and ten, Introduction to Business and Bookkeeping. About 1,350 examinations are given.

Each examination runs for three hours and another two hours is used by each proctor in correcting and recording. Fifty-four Sisters were assigned last June, therefore about 270 hours are required. The cost is approximately \$436.* \$436

*\$1.615 per hour

Summary

Summary of the results of the investigation into the cause of the failure of the engine. The engine was found to be in good condition at the time of the failure. The failure was caused by a lack of lubrication. The engine was found to be in good condition at the time of the failure. The failure was caused by a lack of lubrication.

Item	Quantity	Value
Engine	1	100.00
Lubrication	1	50.00
Tools	1	25.00
Parts	1	10.00
Other	1	5.00
Total		190.00

Engine Investigation

The engine was found to be in good condition at the time of the failure. The failure was caused by a lack of lubrication. The engine was found to be in good condition at the time of the failure. The failure was caused by a lack of lubrication.

Engine Investigation

The engine was found to be in good condition at the time of the failure. The failure was caused by a lack of lubrication. The engine was found to be in good condition at the time of the failure. The failure was caused by a lack of lubrication.

The engine was found to be in good condition at the time of the failure. The failure was caused by a lack of lubrication. The engine was found to be in good condition at the time of the failure. The failure was caused by a lack of lubrication.

Engine Investigation

SUMMARY

Examination and Inspection

Teacher Examinations	\$ 64,752.00
Entrance Examinations	510.00
NYS Regents Scholarship Examinations	190.00
January & June Regents Examinations	2,050.00
SRA Tests	316.00
Otis I Q. Test	215.00
Kuder Preference Tests	400.00
Diocesan Examinations	<u>420.00</u>
Total	..\$68,853.00

(Total Aid Apportioned Under Chapter 138 - \$77,878.80)

1992

123

11. PUPIL ENROLLMENT (ATTENDANCE)

A 20-week attendance card (IBM) for each of two semesters is punched for each pupil in the Central Office. Pupils are assigned to homerooms by way of card - Central Office responsibility. Cards are kept by each homeroom teacher as a daily record of attendance. Each day (8:30 a.m.) each homeroom teacher sends absence cards only to the Central Office. The Attendance Supervisor types out the list of names of absentees with homeroom numbers. The Attendance Supervisor holds the cards and determines reasons for absence - if no information comes to her from parents, she calls the parents.

Each day the cards in the Central Office are run through the sorter and sorted alphabetically by class years. After absence information is satisfactory, cards are resorted into homeroom classification and returned to homerooms late in the afternoon.

At the end of each marking period (4 per year), a set of "marked sensed" attendance cards go to each homeroom teacher - one set for the year.

The homeroom teacher uses her regular homeroom card to determine total absences and tardinesses and then transfers such totals to the marked sensed card.

When the third marking period starts, homeroom attendance cards go to the data processing room - there they are sorted alphabetically and sorted, and a new set is made up and sent to homerooms for the last two marking periods. Attendance reports are prepared monthly by the Attendance Supervisor for her office use and at times (not regularly) a report goes to the Diocesan Office. The report to the State Education Department at the end of the year will (probably) come from the Diocesan Office.

1. The first of these is the fact that the Government has not been able to secure the necessary funds to carry out its policy of maintaining the value of the pound at its pre-war level. This has been due to a variety of factors, including the fact that the Government has not been able to secure the necessary foreign exchange to finance its policy.

1

[illegible]

The marked sensed cards are filed at the end of the year with the homeroom cards.

Central Office Time Determination:

Attendance Supervisor - 22/24 of each work day is devoted to attendance (The school operates on a modular schedule.)

Additional Time as follows:

A.M. & P.M.	1½ hours, daily	
Preparing reports at home	- 27 hours yearly	
22/24 assuming 180 days		165
Additional days, assuming 6½ hours/day		<u>46</u>
Total Equivalent Days		211
Salary: 180 days		\$ 2,100.00*
31 additional days		<u>373.00</u>
Central Office		\$ 2,473.00
Supplies:		90.00
IBM Rentals		<u>409.00</u>
Total Central Office Cost		\$ 2,972.00 \$2,972.00

Classroom Teacher Time Determinations:

	<u>Number</u>	<u>Time Per Day Min.</u>	<u>Days</u>	<u>Total Time Hours</u>	<u>Salary</u>	<u>Total Cost</u>
Sisters	40	20	180	2,400	\$ 2,100	\$ 3,876
Priests	2	20	180	120	2,500	230
Lay	11	20	180	660	6,000	3,060
Lay	<u>15</u>	20	180	<u>900</u>	6,200	<u>4,278</u>
Total	68			4,080	\$14,364

*Total Sister Salary

SUMMARY

Pupil Enrollment (Attendance)

Central Office Costs \$ 2,972

Classroom Teacher Costs 11,444

Total \$ 14,416

~~\$14,416~~

III. PUPIL HEALTH RECORDS

A full-time nurse is assigned and paid for by the Lansingburgh Public School. Office space is furnished by Catholic High School. The nurse assists the medical doctor on all examinations. The Central Office key punches annually an IBM card for each student showing name, address, telephone number and another person to call except parents in case of an emergency. The Central Office supplies IBM cards, key punch and key punch operators at no charge to the public school. At the time of physical examinations the Central Office prepares a schedule for such examinations for the medical doctor and nurse - it posts copies of such schedules on the gymnasium bulletin board and sends a personal note to each pupil - no charge is made to the public school.

Central Office Time & Cost Determinations:

Personnel	\$ 90.00	
Key Punch Time	29.00	
Office Space	200.00	
Supplies	<u>10.00</u>	
Total	\$ 329.00\$329.00

IV. BASIC EDUCATIONAL DATA SYSTEM

Due to the fact that basic data had already been acquired and recorded for other administrative purposes, only a small amount of time was required in completing the Basic Educational Data System Report (BEDS). The cost of compiling such a report is estimated at \$30.00,.....~~\$30.00~~

V. SECONDARY SCHOOL REPORT

This mandated service requires the recording and compiling of data on each individual staff member indicating all characteristics relating to his or her qualifications in connection with the particular assignment of duties. These recordings become permanent personnel records and provide data for the Secondary School Report.

The basic data is assembled under the supervision of the Assistant Principal and the Secondary School Report is compiled by that office under the supervision of the Supervising Principal.

Cost Determination

	<u>Hours</u>
Teacher Time in Providing Data	90
Compiling and Recording Data	15
Compiling Secondary School Report	10
Typing and Clerical	10
Miscellaneous	<u>10</u>
Total	135

Because the entire professional staff and others were involved, an average hourly wage is assumed @ \$3.00.

Total: 135 hours x \$3.00 \$405.00~~\$405.00~~

SUMMARY
OF
DIRECT COSTS

1. Teacher Examinations	\$ 68,853.00	
2. Pupil Enrollment (Attendance)	14,416.00	
3. Pupil Health Records	329.00	
4. Recording and Reporting of Personnel Qualifications and Characteristics - Basic Educational Data System	30.00	
5. Secondary School Report	405.00	15,180.00
Total	\$ 84,033.00	\$84,033.00

(Total Aid Apportioned Under Chapter 138 - \$77,878.80)

APPENDIX

EXHIBIT 100

1. 100.00

Teacher Examinations

10.00

Public Examinations (Examinations)

10.00

Public Examinations (Examinations)

Recording and Reporting of Examinations

10.00

Qualifications and Characteristics

10.00

Secondary School Report

10.00

Total

Total All Appointments and Examinations 100.00

COSTS BEYOND DIRECT COSTS

Payments in Kind Or Benefits

CCHS pays annually to St. Joseph's Provincial House, Latham, Albany County, \$400 for each St. Joseph Sister assigned to CCHS. During 1970-71 26 Sisters were assigned.

CCHS provides transportation for 23 Sisters from St. Joseph's Provincial House to CCHS daily. Such transportation is provided in station wagons owned by CCHS and a Volkswagon bus rented by CCHS.

CCHS provides the Convent House which houses the Sisters of Mercy assigned to CCHS. During 1970-71, 16 Sisters were assigned. In addition to providing the Convent House as such, CCHS maintains it to the extent of all repairs, heat, electricity and replacement of furniture, etc.

CCHS provides transportation for the 16 Sisters from the Convent House to CCHS daily. Such transportation is provided in one station wagon owned by CCHS and in a rented taxi.

There are three other Sisters for whom CCHS provides maintenance. CCHS provides a home(house) for the Supervising Principal and other Priests assigned to CCHS. CCHS maintain the house (repairs, improvements, etc.) and supplies heat, electricity and insurance.

1. The first step in the process of the investigation is the identification of the problem. This is done by the investigator who is assigned to the case. The investigator must first identify the problem and then determine the scope of the investigation. This is done by the investigator who is assigned to the case. The investigator must first identify the problem and then determine the scope of the investigation. This is done by the investigator who is assigned to the case. The investigator must first identify the problem and then determine the scope of the investigation. This is done by the investigator who is assigned to the case.

X

Kind and Benefit Costs

Sisters' Maintenance 29 x \$400	\$ 11,600.00
Sisters' Transportation, St. Joseph	4,050.00
Sisters' Transportation, Mercy Convent	2,960.00
Faculty Residences	<u>10,000.00</u>
Total	\$ 28,610.00

It is general practice to assign Sisters as far as possible to proctor the various specialized examinations that are given throughout the year. The purpose is to reduce the cost.

The above kind and benefit costs associated with the Sisters total is \$28,610 annually. The total salaries paid to religious teachers are about 40% of the total annual teachers' salaries and the determined cost of mandated services is supplied to the extent of 63% by religious teachers. Therefore, it seems logical to apply to the cost of mandated services, 40% of \$26,610, which is \$11,444, but to proportion this in the relationship of the salaries of religious teachers to the cost of all teachers, namely, 63% of \$11,444 or \$7,310.....\$7,310

X

Electricity, \$1,500.00	Electricity, \$1,500.00
Gas, \$1,000.00	Gas, \$1,000.00
Water, \$1,000.00	Water, \$1,000.00
Telephone, \$1,000.00	Telephone, \$1,000.00
Postage, \$1,000.00	Postage, \$1,000.00
Total, \$5,000.00	Total, \$5,000.00

It is general practice to assign Service as an aid in
 showing the various specialized activities and the
 the year. The purpose is to reduce the cost.
 The above plan and service is being established with this
 1918-1919. The total estimated cost for this year is
 100% of the total annual income, which is estimated
 as follows: It is estimated that the total cost of the
 service, it seems logical to apply to the cost of service
 and of the total cost is 100%, and the total cost is
 100% of the total cost of service, which is the cost of
 service, 100% of the total cost of service, which is the cost of

Indirect Costs

Custodial Service	CCHS	\$ 51,100.00
Electricity	CCHS	12,000.00
Heating	CCHS	8,000.00
Maintenance	CCHS	14,000.00
Insurance	CCHS	12,000.00
Social Security	CCHS	13,000.00
Pensions	CCHS	3,000.00
Telephone	CCHS	<u>2,750.00</u>
Total		\$ 115,850.00

Some portion of these annual indirect costs should be assigned to the cost of mandated services. This can be done by using the same ratio that was used in connection with kind and benefit costs (page 17) namely, 40% of 64% or about 25%, or ~~\$28,962.00~~\$28,962.00

(Total Aid Apportioned Under Chapter 138 - \$77,878.80)

Imports 1961

21,000.00	21,000.00	Imports of raw materials
1,000.00	1,000.00	Imports of machinery
5,000.00	5,000.00	Imports of tools
14,000.00	14,000.00	Imports of spare parts
11,000.00	11,000.00	Imports of consumables
11,000.00	11,000.00	Imports of fuel
2,000.00	2,000.00	Imports of lubricants
2,100.00	2,100.00	Imports of other goods
57,100.00	57,100.00	Total

Imports of raw materials, machinery, tools, spare parts, consumables, fuel, lubricants, and other goods, totaling 57,100.00.

SUMMARY
OF
DIRECT, KIND, BENEFIT
AND COMPUTED COSTS

Direct	\$ 84,033.00
X Kind & Benefit	7,310.00
Computed	<u>28,962.00</u>
Total <u>\$120,305.00</u>

The average daily attendance in September, 1970 was 1730. When this is divided into the total expenditures for mandated services, the per pupil cost is \$69.54, as opposed to the current apportionment amount of \$45.00.

ADA Sept. 1730

ADA Oct. 1704

(Total Aid Apportioned Under Chapter 138 - \$77,878.80)

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The staff of St. Thomas is as follows:

Administrative and Teaching

Principal - Full Time

Religious Sisters - 5

Lay Teachers - 4

Music Teacher (Sister) - 1 day per week

Remedial Reading (Federal) - 3 hrs. - 4 days a week

Speech Therapist (Federal) - 1 day per week

Enrollment - Sept. 1970, K-8	336
Enrollment - Feb. 1971, K-8	330
ADA - Oct. 1970, Gr. 1-6	234.30
Gr. 7-8	<u>64.45</u>
Total	298.75

Overall Ratio 31

Pupil Teacher Ratio 34.3

STATE OF NEW YORK

IN SENATE

January 11, 1910

REPORT

OF THE

COMMISSIONERS OF THE LAND OFFICE

IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE

ON JANUARY 11, 1899

ALBANY: JAMES B. LEECH, STATE PRINTER

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I. EXAMINATION AND INSPECTION

All grades provide for periodic examinations throughout the school year. In addition, special examinations are given at certain specific times and in selected grades.

The costs of all such examinations including materials are listed below by grades. Such costs take into consideration the various levels of teacher salaries.

Kindergarten	\$ 285
Grade 1	285
Grade 2	390
Grade 3	820
Grade 4	2,800
Grade 5	350
Grade 6	1,250
Grade 7	390
Grade 8	290
Reading Specialist	258
Speech Therapist	<u>516</u>
	\$ 7,634..... \$7,634

EXHIBITION AND INVESTIGATION

All grades provided for testing. Examination of the
 In addition, special examination is given to certain grades
 and to selected grades.
 The cause of all such examination including material and
 by means of such tests the investigation of the material
 is made as follows:

Investigation	
Grade 1	100
Grade 2	100
Grade 3	100
Grade 4	100
Grade 5	100
Grade 6	100
Grade 7	100
Grade 8	100
Grade 9	100
Grade 10	100
Grade 11	100
Grade 12	100
Grade 13	100
Grade 14	100
Grade 15	100
Grade 16	100
Grade 17	100
Grade 18	100
Grade 19	100
Grade 20	100
Grade 21	100
Grade 22	100
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Grade 89	100
Grade 90	100
Grade 91	100
Grade 92	100
Grade 93	100
Grade 94	100
Grade 95	100
Grade 96	100
Grade 97	100
Grade 98	100
Grade 99	100
Grade 100	100

II. PUPIL ENROLLMENT (ATTENDANCE)

Attendance is checked and recorded daily by each classroom teacher.

In addition each classroom teacher makes a monthly check and presents attendance registers to Principal. The Principal prepares monthly reports and annual reports.

A total of 541 hours is required for teachers and Principal to complete the above process. When this is computed on the basis of the various lay salaries and religious salaries the total cost is\$2,300.00

III. PUPIL HEALTH RECORDS

The responsibility for providing health services to nonpublic schools in Albany County rests with the County Health Department. Apparently, the nonpublic schools and the public schools require first that physical examinations be performed by the family physician. If this is not financially possible then the County provides the examination for nonpublic school students. The results of all physical examinations are made available to the nonpublic school and retained as a permanent record.

Nurse service is provided on a voluntary basis by a local R.N. at no cost to the nonpublic school. However, approximately 30 hours were devoted by the R.N. and the Principal in preparing data on health cards. When the 30 hours are translated into costs the total is approximately \$100.00\$100.00

IV. BASIC EDUCATIONAL DATA SYSTEM (BEDS)

The above topic relates to an annual report required by the State Education Department. It includes certain data pertaining to personnel, students and facilities. Some of the required data has been assembled and recorded for other purposes before the BEDS report is required. Because of this only a limited time is needed in compiling the BEDS report.

The estimated time required of the principal's office is only a few hours and is therefore, negligible in terms of dollar costs - probably not in excess of \$10.00.....~~\$10.00~~

V. SECONDARY SCHOOL REPORT

This is an annual report required by the State Education Department. It involves certain data which has been previously assembled for other purposes. Due to the fact that the results of the previous work are not being included in this report under any other section, the time requirement is included here. The total estimated time is seven hours and translated into costs is \$12.00~~\$12.00~~

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SUMMARY
OF
DIRECT COSTS

- | | |
|----------------------------------|------------|
| 1. Teacher Examinations | \$ 7,634. |
| 2. Pupil Enrollment (Attendance) | 2,300. |
| 3. Pupil Health Records | 100. |
| 4. Basic Educational Data System | 10. |
| 5. Secondary School Report | <u>12.</u> |

Total \$10,056.

(Total Aid Apportioned Under Chapter 138 - \$9,232.56)

SECRET

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COSTS BEYOND DIRECT COSTS

Payments in Kind Or Benefits

Lay teachers are covered by Social Security and have the opportunity to participate in Blue Cross, the Diocesan Pension Plan and the Insurance Plan. The cost of these benefits to St. Thomas School is \$2,700 annually. The Parish also provides a convent home for the religious teachers. The annual cost of such a home amounts to approximately \$6,200. The total salaries paid to religious teachers are about 30% of the total annual teachers' salaries and the determined cost of mandated services is supplied to the extent of 25% by religious teachers. Therefore, it seems logical to apply to the cost of mandated services, 30% of \$6,200, which is \$1,860, but to proportion this in the relationship of the salaries of religious teachers to the cost of all teachers, namely 25% of \$1,800 or \$465.....~~\$465.00~~

Indirect Costs

The annual cost of operating the school itself including all salaries is about \$63,250. It seems logical that some proportion of this annual cost should be assigned indirectly to the cost of mandated services. This can be done by using the same ratio that was used in connection with kind and benefit costs, namely about 7.5% or~~\$4,700.00~~

SUMMARY OF

10,056

7...\$15,221.00

\$9,232.56)

(Chapter 138 Grades 1-6 currently \$27.00, Grades 7-12 currently \$45.00)

MODE I - 26

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MODE 11

FIELD SURVEY

OUTLINE

1. Educational Setting - Purpose - Objectives
2. Plan - Procedure - Limitations
3. Format of Case Study Questionnaire
4. Hicksville Component - Secondary
5. Mineola Component - Secondary
6. Mineola Component - Elementary
7. Hicksville Component - Elementary
8. Summary of Data
9. Field Survey Limitations
10. Conclusions

1911

1912

1913

Investigations - 1911 - 1912 - 1913

1. The 1911-1912 season

2. The 1912-1913 season

3. The 1913-1914 season

4. The 1914-1915 season

5. The 1915-1916 season

6. The 1916-1917 season

7. The 1917-1918 season

8. The 1918-1919 season

9. The 1919-1920 season

EDUCATIONAL SETTING

The 1970 Legislature passed an act to provide for the apportionment of State monies to certain nonpublic schools in connection with inspection and examination and made provision to implement the legislation in the amount of \$28,000,000. This became Chapter 138 of the Laws of 1970. In effect the new law provided 15 cents a day per child in grades 1-6 and 25 cents per day for students in grades 7-12 for covered services.

The amount to be apportioned to each qualifying school shall be the sum of the following:

- a. The product of 15 cents multiplied by 180, multiplied by the average daily attendance in such school in the base year and receiving instruction in grades one through six; and (\$27.00 maximum).
- b. The produce of 25 cents multiplied by 180, multiplied by the average daily attendance in such school in the base year and receiving instruction in grades seven through twelve (\$45.00 maximum).

In August 1970, the legal regulations and guidelines were made public in a printed pamphlet entitled, "Law Regulations and Guidelines - Apportionment to Nonpublic Schools," and were distributed to all interested parties by the New York State Education Department. The pamphlet was supplemented by application forms for the nonpublic school's assistance, together with instruction

In the fall of 1970, Dr. Thomas W. Heath was named Coordinator for Nonpublic School Services. As Coordinator, Dr. Heath has the responsibility to implement the new legislation providing aid to the nonpublic schools for examination and inspection services.

1. The first of these is the fact that the new legislation provides for the removal of the

In consultation with Dr. Philip B. Langworthy, Acting Deputy Commissioner, Dr. Stanley L. Raub, Associate Commissioner and Assistant Commissioners Dr. John W. Polley and Dr. Bernard F. Haake, Dr. Heath recommended and approval was given for field survey involving comparison of costs of public and nonpublic schools for mandated services covered by the new legislation in three separate State locations. In January of 1971, Dr. Earl F. Soper was retained by the New York State Education Department to conduct the field survey.

Dr. Soper's responsibility included the staff interviews in each selected public and nonpublic school, the development of a questionnaire to elicit data for cost comparisons and a report which would summarize findings and offer recommendations pertinent to spirit of the new legislative mandate.

PLAN

The projections for the field study involved four component elements. A survey would be made in the Nassau County area and involve in effect a comparison of results gathered in both a public and a nonpublic school in the area. Areas selected included Hicksville and Mineola. In Hicksville, Holy Trinity Diocesan High School was paired with Hicksville High School. In Mineola, Chaminade High School was paired with Mineola High School. At the elementary level Corpus Christi Elementary School and Willis Avenue Elementary School were paired for the Mineola elementary components, while Holy Family Elementary School was paired with Dutch Lane Elementary School for the Hicksville elementary components.

COMPONENTS

PUBLIC

Hicksville High School
Mineola High School
Dutch Lane Elementary School
Willis Avenue Elementary School

NONPUBLIC

Holy Trinity High School
Chaminade High School
Holy Family Elementary School
Corpus Christi Elementary School

PROCEDURE

In each component of the field survey, Dr. Soper met with the school authorities, explained the purpose of the study and interviewed staff to ascertain the time spent on mandated services covered by the act. Staff fell generally into two major categories. First, were those special staff personnel generally serving all the children wherein a percentage of their professional or non-teaching time was devoted to educational services covered by Chapter 138. The second group were those staff members who served students in mandated services on a varied and irregular time schedule. This group was sampled. A conference furnished appropriate explanation and the amount of time devoted to mandated services was elicited by careful conference-questionnaire technique. In case of sampled teachers it is noted that such service for each teacher was to the classes covered by that teacher each day. Accordingly, varied amounts of time were expected and reported by the sample participants.

Time given by professionals to handle mandated services, testing particularly, often came during out of school hours. It was necessary, therefore, to equate this time on a comparable basis to a paid day at salary received for seven hours of service. In all fairness it does not reflect actual dollars since these out of school hours are a part of a teachers expectancy rather than required or mandated hours of service.

PROCEDURAL - LIMITATIONS

1. It quickly became apparent that interpretations of the service as applied were necessary. Accordingly, tests were interpreted to mean the instrument used to measure educational progress. This involved the preparation of the tests, gaining familiarity with guides, etc., the test administration and correcting together with follow-up including recording and disseminating data.
2. Evaluation was considered to be a more restricted professional endeavor limited to the test mechanic itself.
3. It was assumed that a per diem rate for ten month employees would be determined by dividing the annual salary by 180 as set forth in the act itself.
4. The mechanics of dropping cents and using dollars only were frequently used.
5. It was assumed where necessary that there were 20 working days, per month, 40 weeks per year. A professional day was considered to be seven hours. Secretaries were also gauged at seven hours. Half days were rounded off. Peak periods were prorated to a typical week.
6. Where professional estimates of time spent were given as a range (i.e., 10% - 20%) the mid point of the range was used. Likewise, when staff time percentages were estimated by two or more staff members relative to a particular position and a difference in time estimates were received, the average was used.
7. Time limitations made it necessary to limit the survey to staff time. No consideration was given to the pro rata cost of mandated services involved with plant, plant maintenance, plant service

personnel, plant utilities or equipment and supplies of any kind.

8. Salaries for members of the religious community were taken at total salaries which included donated services and remunerated services.
9. Time estimates include a composite of service which cover within day, after hours, evening services, vacation and/or weekends. This time was interpreted as a total service of days as indicated.
10. Each of the selections from the three components represented but a single building survey, were not intended to be district-wide and contained no basic postulation of costs for covered services, other than the State appropriation.
11. Time limitations make it necessary to list sample elementary classroom teachers. Special teachers in pupil personnel services have been included. However, time would not permit interviews with special teachers of art, music, physical education, etc. Consequently, time spent by these teachers have not been included. Best estimates indicate that since these teachers serve larger numbers of students weekly the cost would not substantially change the figures given herein.

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A. Staff member - Personal Data

Name

School

Grade

Subject

Title

Salary

Other

Number of Pupils

Number of Staff

B. Examination and Inspection (Mandated Evaluation)

Testing - All Types

Typical Week - Time Required

Teacher-made Tests

Preparation

Administration

Correction

Follow Up (Reporting)

Department or Grade Tests

Preparation

Administration

Correction

Follow Up

Achievement Tests

Preparation

Administration

Correction

Follow Up

Serial number - Personal Data

Name

School

Grade

Religion

Birth

Parents

Address

Number of Family

Number of Staff

Examination on and image film (Projected Evaluation)

Section - All Types

Typical Work - Time Required

Teacher and Learner

Organization

Administration

Curriculum

Section of Department

Department or Grade Level

Preparation

Administration

Organization

Section of

Administration

Preparation

Administration

Organization

Section of

Intelligence Tests

Preparation

Administration

Correction

Follow Up

PEP Tests Grades 3, 6, 9

Preparation

Administration

Correction

Follow Up

Other

Preparation

Administration

Correction

Follow Up

Note: Administration includes:

Supervision

Preparation - prepare test, read and study manual, etc.

Follow Up - recording results, individual records, etc.

Administrative

Personnel

Finance

Legal

Public Relations

Internal Security

Intelligence

Operations

Training

Medical

Food Service

Transportation

Communications

Engineering

Construction

Maintenance

Supply

Security

Administration

Personnel

Finance

Legal

Public Relations

Internal Security

Intelligence

Operations

Training

Medical

Food Service

Transportation

C. Attendance

Time for routine daily attendance

Time for register

Time for register reports

Time for data process forms

Time for data process reports

Time for permanent records

Time for conferences

Nurse

Social Worker

Psychologist

Guidance Counselors

Attendance Teacher

Principal

Superintendent of Schools

Parent

Child

Other

Time for count

Time for general group conference

D. Health Records

Time for taking data

Time for recording data for report cards

health records

personnel records

Time for study and review

1. The first part of the report is a summary of the work done during the year.

2. The second part is a detailed account of the work done during the year.

3. The third part is a summary of the work done during the year.

4. The fourth part is a summary of the work done during the year.

5. The fifth part is a summary of the work done during the year.

6. The sixth part is a summary of the work done during the year.

7. The seventh part is a summary of the work done during the year.

8. The eighth part is a summary of the work done during the year.

9. The ninth part is a summary of the work done during the year.

10. The tenth part is a summary of the work done during the year.

11. The eleventh part is a summary of the work done during the year.

12. The twelfth part is a summary of the work done during the year.

13. The thirteenth part is a summary of the work done during the year.

14. The fourteenth part is a summary of the work done during the year.

15. The fifteenth part is a summary of the work done during the year.

16. The sixteenth part is a summary of the work done during the year.

17. The seventeenth part is a summary of the work done during the year.

18. The eighteenth part is a summary of the work done during the year.

19. The nineteenth part is a summary of the work done during the year.

20. The twentieth part is a summary of the work done during the year.

21. The twenty-first part is a summary of the work done during the year.

22. The twenty-second part is a summary of the work done during the year.

23. The twenty-third part is a summary of the work done during the year.

24. The twenty-fourth part is a summary of the work done during the year.

25. The twenty-fifth part is a summary of the work done during the year.

Holy Trinity High School
Hicksville, New York

Father Young, Principal at Holy Trinity, Assistant Principal, Sister Marie Kennedy and Sister Catherine William and members of the staff made the writer more than welcome. Four staff members of social studies, English, mathematics and science were jointly interviewed as were the administrators. The staff sample comprised two day teachers and two Sisters. Four different disciplines were also sampled. Three sampled were department heads. From this sample determinations were made relative to the typical staff members providing mandated services.

Subsequently, the nurse, head guidance counselor, dean of students and principal's secretary were interviewed. In the case of these specialists, professional estimates of the percentage of the staff member's time spent on these covered services were given. The principal's secretary provided data on salaries for computing for pupil costs.

The department chairmen felt that time spent by them in administration-supervision equaled time spent by them in their teaching capacities for these mandated services. Students at this Diocesan high school attended generally more (6.8) classes on the average. There are 1995 students enrolled with a staff of 94.

1

Holy Trinity High School
Hicksville, New York

Tabulation of Data

General

1. Number of students - 1995

2. Number of staff (Professional) 94

Staff - Percentage-Mandated Services

1. Professional

<u>Name</u>	<u>Actual Salary</u>	<u>Donated Salary</u>	<u>Total Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Asst. Prin. Sister Marie Kennedy	\$ 2,400	\$13,800	\$16,200	20%	\$ 3,240	@ 1995
Asst. Prin. Sister Catherine William	2,400	13,800	16,200	15%	2,430	
Nurse, Miss Virginia Byrne			15,220	50%	7,610	
Nurse, Mrs. Dorothy Gallahue			11,784	50%	5,892	
Guidance* - Sister Teresa McGreevy	2,400	11,800	14,200	27.5%	3,905	
Guidance* - Sister Rose Anastasia	2,400	11,200	13,600	60%	8,160	
Guidance* - Richard Laskowski	10,700	--	10,700	12.5%	1,337	
Guidance* - Pasquali Amendolia	15,100	--	15,100	12.5%	1,887	
Guidance* - James Wolan	14,400	--	14,400	12.5%	1,800	
Guidance* - John Moran	12,400	--	12,400	12.5%	1,550	
Principal - Father Young	2,100	15,900	18,000	5%	900	
Total					\$38,711	
Professional (Sub Total) Per Pupil						\$19.40

Examination Only

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 KICK OFF: NEW YORK

TABLE OF DATA

1991			
NUMBER OF STUDENTS			
NUMBER OF STUDENTS (ESTIMATED)			
EST - ESTIMATED NUMBER STUDENTS			
TOTAL STUDENT			
NAME	ACTUAL	ESTIMATED	EST - ACTUAL
1. JAMES EARL RAY	2,500	21,000	18,500
2. JAMES EARL RAY	1,500	12,000	10,500
3. JAMES EARL RAY	1,500	12,000	10,500
4. JAMES EARL RAY	1,500	12,000	10,500
5. JAMES EARL RAY	1,500	12,000	10,500
6. JAMES EARL RAY	1,500	12,000	10,500
7. JAMES EARL RAY	1,500	12,000	10,500
8. JAMES EARL RAY	1,500	12,000	10,500
9. JAMES EARL RAY	1,500	12,000	10,500
10. JAMES EARL RAY	1,500	12,000	10,500
11. JAMES EARL RAY	1,500	12,000	10,500
12. JAMES EARL RAY	1,500	12,000	10,500
13. JAMES EARL RAY	1,500	12,000	10,500
14. JAMES EARL RAY	1,500	12,000	10,500
15. JAMES EARL RAY	1,500	12,000	10,500
16. JAMES EARL RAY	1,500	12,000	10,500
17. JAMES EARL RAY	1,500	12,000	10,500
18. JAMES EARL RAY	1,500	12,000	10,500
19. JAMES EARL RAY	1,500	12,000	10,500
20. JAMES EARL RAY	1,500	12,000	10,500

COPY BOUND CLOSE IN CENTER

2. Nonprofessional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
in. Office - Mrs. Tapia	\$ 6,864	40%	\$ 2,745	1995
in. Office - Mrs. Wilshusen	8,408	25%	2,102	
a. Office - Mrs. Kelly	6,292	50%	3,146	
n. Office - Mrs. Powens	4,862	100%	4,862	
n. Office - Mrs. Conway	6,292	30%	1,887	
a. Office - Mrs. Teleshia	4,862	67.5%	3,281	
tendance - Mrs. O'Melia	4,576	100%	4,576	
- Sister Mary Beatrice	2,400	100%	2,400	
idance* - Mrs. Schilling	5,491	77.5%	4,255	
idance* - Mrs. Magenheimer	4,619	77.5%	3,579	
idance* - Mrs. Mollard	4,576	77.5%	<u>3,546</u>	
	Total		\$36,379	

Nonprofessional (Sub Total) Per Pupil

\$18.23

Examination Only

COPY BOUND CLOSE IN CENTER

C. Staff - Per Diem-Mandated Services

1. Professional Sample

<u>Name</u>	<u>Salary</u>	<u>Donated Salary</u>	<u>Total Salary</u>	<u>Daily \$180</u>	<u>Days of Services</u>	<u>Cost</u>	<u>Per Pupil Cost</u>
Eval. - Sister Mary Healy	\$ 2,400	\$11,800	\$14,200	78	53		@175
Eval. - James Boglioli			9,900	55	174		@175
Eval. - Sister Agnes Cunningham	2,400	11,200	13,600	75	45		@160
Eval. - Ed Rodriquez			8,500	47	16		@170
Attendance - Sister Mary Healy					6		
Attendance - James Boglioli					6		
Attendance - Sister Agnes Cunningham					6		
Attendance - Ed Rodriquez					6		
Health		NONE					
Total Sister Mary Healy				78	59	\$ 4,602	\$ 26.29
James Boglioli				55	180	9,900	56.57
Sister Agnes Cunningham				75	51	3,825	23.90
Ed Rodriquez				47	22	1,034	6.08
Total - Per Pupil - Per Class							\$112.84
Average - Per Pupil - Per Class							28.21
Total - Average of 6.8* classes per pupil							191.82

2. Professional Sample - Supplementation

<u>Name</u>	<u>Total Salary</u>	<u>Daily \$180</u>	<u>Days of Services</u>	<u>Cost</u>	<u>Per Pupil Cost</u>
Business Teacher - Sister Mary Louise	\$13,600	75	14	\$1,050	@ 1995
Business Teacher - Sister Mary Thomas	10,400	57	14	798	
Business Teacher - Sister Mary Anita	10,400	57	14	798	
Total				\$2,646	
Average					\$1.32
Sister Teresa McGreevy					

COPY BOUND CLOSE IN CENTER

<u>Name</u>	<u>Total Salary</u>	<u>Daily \$180</u>	<u>Health Days of Service</u>	<u>Attendance Days of Service</u>	<u>Cost</u>	<u>Per Pupil Cost</u>
Guidance - Sister McGreevy	\$14,200	78	6	3	\$ 702	@ \$1,995
Guidance - Sister Anastasia	13,600	75	6	3	675	
Guidance - Mr. Laskowski	10,700	59	6	3	531	
Guidance - Mr. Amendolia	15,100	83	6	3	747	
Guidance - Mr. Wolan	14,400	80	6	3	720	
Guidance - Mr. Moran	12,400	68	6	3	<u>612</u>	
Total					\$3,987	
Average						\$1.99

4. Nonprofessional

<u>Name</u>	<u>Daily Salary</u>	<u>Health Days of Service</u>	<u>Attendance Days of Service</u>	<u>Cost</u>	<u>Per Pupil Cost</u>
Mrs. Schilling	\$ 21.12	4	1	\$105.60	@ \$1,995
Mrs. Magenheimer	18.15	4	1	90.75	
Mrs. Mollarel	17.60	4	1	88.00	
Total				<u>\$284.35</u>	
Average					\$1.14

D. Summary

1. From B-1 Special Staff	\$ 19.40
2. Nonprofessional Service	18.23
3. From C-1 Typical Average Teacher Cost times per pupil periods	191.82
4. From C-2 Supplemental	1.32
5. From C-3 Other Professional	1.99
6. From C-4 Nonprofessional	.14
Total	<u>\$232.90</u>

Amount of
Days of
Number of

Salary
Rate

Rate

1	1	100.00	100.00
2	2	200.00	200.00
3	3	300.00	300.00
4	4	400.00	400.00
5	5	500.00	500.00
6	6	600.00	600.00
7	7	700.00	700.00
8	8	800.00	800.00
9	9	900.00	900.00
10	10	1000.00	1000.00

Amount

Amount

Amount of
Days of
Number of

Salary
Rate

Rate

1	1	100.00	100.00
2	2	200.00	200.00
3	3	300.00	300.00
4	4	400.00	400.00
5	5	500.00	500.00
6	6	600.00	600.00
7	7	700.00	700.00
8	8	800.00	800.00
9	9	900.00	900.00
10	10	1000.00	1000.00

Amount

Amount

Amount

Amount

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Amount

Total

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Hicksville High School
Hicksville, New York

At Hicksville High School Erwin Rozran, administrative assistant was my host. Greetings and survey approval were received from Superintendent Don Abt. The high school principal, Raymond Rusch provided members of the staff to cooperate in establishing required data.

Four staff members were jointly interviewed. They represented four academic disciplines including mathematics, science, social studies and language with a range of experience. In addition two were department heads. From this sample time spent on mandated services by the typical teacher was projected.

Mr. Rozran and Mr. Rusch arranged for me to also interview the chairman of guidance and a nurse. Data on attendance and the secretarial services, together with salaries, were also provided to enable us to compute per pupil costs.

Students attended an average of 5.6 classes per day. There are 3150 students attending the school and a staff of 174.

Mississippi High School
Mississippi, New York

At Mississippi High School, the following administrative officials

and other personnel were consulted: the principal,

the principal, the principal, the principal, the principal, the principal,

the principal, the principal, the principal, the principal, the principal,

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Hicksville High School
Hicksville, New York

A. General

1. Number of students - 3150
2. Number of teachers - 174
3. Administration - 5

B. Staff-Percentage-Mandated Services

1. Professional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Superintendent - Abt	\$ 35,000	1%	\$ 350	@ 3150
Administrative Assistant - Rozran	24,000	25%	6,000	
High School Principal - Rusch	24,198	20%	4,839	
Assistant Principal - Burke	21,613	37%	7,996	
Assistant Principal - Olvany	21,041	37%	7,785	
Assistant Principal - Jaworski	21,613	37%	7,996	
Assistant Principal - Feign	21,613	37%	7,996	
Guidance				
Total	\$235,534	24%	\$56,528	
12 Counselors				
and Director				
Nurses (3)	39,424	50%	\$ 19,712	
Supervisor Barrison	18,797	12.5%	12,343	
Psychologist - D'Ambrosio	17,360	60%	10,416	
Speech - Ropichen	16,440	2.5%	4,110	
Director - Census & Attendance Center - Chittenden	11,500	7.5%	8,625	
Attendance Teacher - Mrs. Nemith	12,300	50%	6,150	
	Total		\$150,852	
	Average		\$47.88	

Highville High School
Highville, New York

Number of students - 1,124
Number of teachers - 174
Administration
Health, Physical Education, and
Counseling

Line	Amount	Description
1	25,000	Salaries - Admin.
2	25,000	Salaries - Teachers
3	25,000	Salaries - Support
4	25,000	Salaries - Special
5	25,000	Salaries - Other
6	25,000	Salaries - Total
7	25,000	Salaries - Total
8	25,000	Salaries - Total
9	25,000	Salaries - Total
10	25,000	Salaries - Total
11	25,000	Salaries - Total
12	25,000	Salaries - Total
13	25,000	Salaries - Total
14	25,000	Salaries - Total
15	25,000	Salaries - Total
16	25,000	Salaries - Total
17	25,000	Salaries - Total
18	25,000	Salaries - Total
19	25,000	Salaries - Total
20	25,000	Salaries - Total
21	25,000	Salaries - Total
22	25,000	Salaries - Total
23	25,000	Salaries - Total
24	25,000	Salaries - Total
25	25,000	Salaries - Total
26	25,000	Salaries - Total
27	25,000	Salaries - Total
28	25,000	Salaries - Total
29	25,000	Salaries - Total
30	25,000	Salaries - Total
31	25,000	Salaries - Total
32	25,000	Salaries - Total
33	25,000	Salaries - Total
34	25,000	Salaries - Total
35	25,000	Salaries - Total
36	25,000	Salaries - Total
37	25,000	Salaries - Total
38	25,000	Salaries - Total
39	25,000	Salaries - Total
40	25,000	Salaries - Total
41	25,000	Salaries - Total
42	25,000	Salaries - Total
43	25,000	Salaries - Total
44	25,000	Salaries - Total
45	25,000	Salaries - Total
46	25,000	Salaries - Total
47	25,000	Salaries - Total
48	25,000	Salaries - Total
49	25,000	Salaries - Total
50	25,000	Salaries - Total
51	25,000	Salaries - Total
52	25,000	Salaries - Total
53	25,000	Salaries - Total
54	25,000	Salaries - Total
55	25,000	Salaries - Total
56	25,000	Salaries - Total
57	25,000	Salaries - Total
58	25,000	Salaries - Total
59	25,000	Salaries - Total
60	25,000	Salaries - Total
61	25,000	Salaries - Total
62	25,000	Salaries - Total
63	25,000	Salaries - Total
64	25,000	Salaries - Total
65	25,000	Salaries - Total
66	25,000	Salaries - Total
67	25,000	Salaries - Total
68	25,000	Salaries - Total
69	25,000	Salaries - Total
70	25,000	Salaries - Total
71	25,000	Salaries - Total
72	25,000	Salaries - Total
73	25,000	Salaries - Total
74	25,000	Salaries - Total
75	25,000	Salaries - Total
76	25,000	Salaries - Total
77	25,000	Salaries - Total
78	25,000	Salaries - Total
79	25,000	Salaries - Total
80	25,000	Salaries - Total
81	25,000	Salaries - Total
82	25,000	Salaries - Total
83	25,000	Salaries - Total
84	25,000	Salaries - Total
85	25,000	Salaries - Total
86	25,000	Salaries - Total
87	25,000	Salaries - Total
88	25,000	Salaries - Total
89	25,000	Salaries - Total
90	25,000	Salaries - Total
91	25,000	Salaries - Total
92	25,000	Salaries - Total
93	25,000	Salaries - Total
94	25,000	Salaries - Total
95	25,000	Salaries - Total
96	25,000	Salaries - Total
97	25,000	Salaries - Total
98	25,000	Salaries - Total
99	25,000	Salaries - Total
100	25,000	Salaries - Total

2. Nonprofessional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
School Secretaries (6)	\$38,583	37%	\$14,275	@
ance Secretaries (5)	31,150	63%	19,624	3150
Director Secretary (1)	7,157	10%	715	
endance Secretary - Hartmen	4,304	7%	301	
endance Secretary - Buckstim	7,157	14%	1,001	
		Total	\$35,916	
		Average		\$11.40

Staff Per Diem - Mandated Services

1. Professional Sample

<u>Name</u>	<u>Salary</u>	<u>Daily \$180</u>	<u>Days of Service*</u>	<u>Cost</u>	<u>Per Pupil Cost</u>
unningham	\$17,898	99.43	77	\$ 7,656	@130
McGinnis	16,415	91.19	84	7,659	@125
risiolo	12,420	69.00	77	5,313	@100
visi	9,376	52.08	87	4,530	@110
			Total	\$20,854	

Average:	Cunningham	\$ 58.89
	McGinnis	61.27
	Crisiolo	53.13
	Pavisi	41.18
Total Per Pupil Per Class		\$214.47
Average Per Pupil Per Class		53.61

ination, attendance and health records average of 5.6 classes per pupil \$300.21

2. Supplemental

BOCES - Service Attendance	\$2.00
BOCES - 70¢ for 1/3 of students	.23
Total	\$2.23

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Summary

From B-1 Professional Special Staff	\$ 47.88
Nonprofessional Services	11.40
From C-1 Typical Average Teacher Cost	
Times pupil periods	300.21
From C-2 Supplemental	2.23
Total	<u>\$361.72</u>

Principal - William Feign

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Chaminade High School
Mineola, New York

Brother Lawrence Oleksiak, Principal, welcomed me to Chaminade High School and was my host for the day. This private Catholic High School has a most unique program with a very selective male student body. The curriculum is rigorous and evidence of dedication and loyalty to a heavy work schedule abounds. The staff obviously gives unstintingly of time and talent. Accordingly, our data on time spent in evaluation which includes after-hour time seems skewed. However, it is realistic in comparison to other programs examined.

Four staff members were interviewed to establish a sample. Four disciplines were sampled including English, social studies, mathematics and language. Two were lay teachers and two were from the religious order. The principal, the assistant principal who also headed guidance, the dean of students also serving as assistant principal, the nurse and the attendance teacher were also interviewed. The principal provided cost data but via conference requested that names not be used in favor of a numbering system. We have abided by his request in this regard.

Students attend an inordinately high (7.8) number of classes per day on the average. A demanding curriculum. There are 1111 students enrolled and a staff of 60.

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Chaminade High School
Mincola, New York

Tabulation of Data

A. General

1. Number of students - 1111

2. Number of staff (Professional) - 60

B. Staff - Percentage - Mandated Services

1. Professional

<u>Name</u>	<u>Actual Salary</u>	<u>Donated Salary</u>	<u>Total Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Administration #1	\$ 3,000	\$11,170	\$14,170	2.2%	\$ 311	@ 1111
Administration #2	3,000	11,170	14,170	25%	3,542	
Administration #3	15,572	--	15,572	67.5%	10,511	
Administration #4	3,000	9,025	12,025	25%	3,006	
Guidance #1	13,442	--	13,442	20%*	2,688	
Guidance #2	3,000	7,290	10,290	20%	2,058	
Guidance #3	11,084	--	11,084	20%	2,216	
Guidance #4	3,000	6,660	9,660	20%	1,932	
Guidance #5	3,000	7,920	10,920	20%	2,184	
Guidance #6	3,000	5,260	8,260	20%	1,652	
Guidance #7	3,000	4,280	7,280	20%	1,456	
Guidance #8	3,000	4,280	7,280	20%	1,456	
Course	9,606	--	9,606	50%	4,803	
			Total		\$37,815	
			Average			

40% of half time (50%) equals 20%

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Nonprofessional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
al Secretary	\$ 7,060	1%	\$ 70	@ 1111
ce Secretary	6,027	60%	3,616	
Secretary	6,888	10%	688	
nce Officer	6,027	100%	6,027	
nce Assistant	6,027	22.5%	1,356	
		Total	\$11,757	
		Average		\$10.58

aff - Per Diem-Mandated Services

Professional

<u>Name</u>	<u>Actual Salary</u>	<u>Donated Salary</u>	<u>Total Salary</u>	<u>Daily +180</u>	<u>*Days of Service</u>	<u>Cost</u>	<u>Per Pupil Cost</u>
#1	\$ 3,000	\$ 7,290	\$10,290				175
#2	18,292	--	18,292				160
#3	18,496	--	18,496				160
#4	3,000	6,660	9,660				145
#1				57	51	\$ 2,907	\$ 16.61
#2				101	136	13,736	85.85
#3				102	200	20,400	127.50
#4				53	142	7,526	51.90
					Total		\$281.86
							70.46
							\$549.58
Average - Per Pupil Per Class							
Average of 7.8 **classes per pupil							

tion, attendance and health
rick Stafford

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Supplemental

Report Card Service (VSI)

Per Pupil

\$14.75

Summary

From B-1 Special Staff \$ 34.03

From B-2 Nonprofessional 10.58

From C Typical Average Teacher Cost
Times pupil periods 549.58

From D Supplemental 1.75

Total **\$595.94**

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Mineola High School
Mineola, New York

I was greeted at Mineola High School by Ben Wallace, Superintendent of Schools. Superintendent Wallace explained that the administrative organization at Mineola High School was changed and in transition since the principal and one of the assistant principals has resigned last summer. Superintendent Wallace and his Assistant Superintendent, George Russo were heading the administrative high school staff. My host for the day was Eliot Spack, Coordinator of ES 70, who also serves in the administrative staff.

Four teachers representing mathematics, science, social studies and English were interviewed to secure an appropriate sample. In addition to Superintendent Wallace, we also interviewed Mr. Spack; Assistant Superintendent, Mr. Russo; Assistant Principal, Mr. Torre; the attendance staff assistant, Mr. Kranitz; PPS Director, Vito Merola and a nurse teacher.

Experimental Title III ESEA programs are in operation in the area of individualization of instruction and proper recognition for this project was taken. We found that the business office handles data processing in both attendance and report card evaluation records. Allowance was made for this service.

The average number of classes per pupil was low (5.2). One reason for this was the large number of students (some 1/6) on early dismissal, taking four or five subjects, and going to work experience. There are 1802 students enrolled and a staff of 119.

The following is a summary of the findings of the study conducted at Minneapolis High School by the National Education Association. The study was conducted in 1934 and 1935. The purpose of the study was to determine the effectiveness of the National Education Association's program of teacher training and professional development. The study was conducted in three phases. The first phase was a survey of the existing conditions at Minneapolis High School. The second phase was a series of interviews with the principal, the superintendent, and the teachers. The third phase was a series of observations of the classroom. The findings of the study are as follows: 1. The existing conditions at Minneapolis High School were found to be satisfactory. 2. The interviews with the principal, the superintendent, and the teachers revealed that the National Education Association's program of teacher training and professional development was highly effective. 3. The observations of the classroom revealed that the teachers were highly effective in their teaching. The study concluded that the National Education Association's program of teacher training and professional development was highly effective and should be continued.

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Mincola High School
Mincola, New York

Tabulation of Data

General

1. Number of students - 1802
2. Professional staff - 119
3. Half-time teachers - 2
4. Special teachers - part time - 3
5. Assistant Principal - 1

Staff - Percentage-Mandated Services

1. Professional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Superintendent - Ben Wallace*	\$34,000	10%	\$ 3,400	@ 1802
Assistant Superintendent - George Russo	26,487	35%	9,270	
Assistant Superintendent - L. Formica	30,250	3%	907	
Coordinator ES70 - Eliot Spack	21,007	50%	10,503	
Assistant Principal - Frank Torre	19,392	75%	14,544	
Director of Guidance - Vita Merola	19,105	40%	7,642	
Guidance - 5 full time	79,808	25%	19,952	
Guidance - 2 part time (50%)	30,530	12.5%	3,816	
Director Nurses (P.T. - N.S.)	18,213	5%	910	
Nurses (2)	20,765	30%	6,229	
Psychologist - Morton Wolitzer**	18,600	15%	2,790	
Speech - Hedy Adamsky***	9,138	2%	182	
Attendance - Wallace Kranitz	17,275	25%	4,318	
		Total	\$84,463	
		Average		\$46.87

*Serves as Acting Principal
80% in H.S. @ 25%
40% in H.S. @ 5%

Albany, New York
March 2, 1907

My dear Sir,

1897

113

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2. Nonprofessional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Principal's Secretary - Helen Mackay	\$ 8,289	10%	\$ 828	@ 180
Secretary - Emily Tschinkel	6,089	10%	608	
Records Secretary - Hazel Swistara	6,689	10%	668	
Records Secretary - Helen Tischler	7,189	60%	4,313	
Clerk - Eleanor Rager	1,836	90%	1,652	
Ext. Prin. Office - Julia Baer	4,487	75%	3,365	
Ext. Prin. Office - June Joseflery	3,500	75%	2,625	
Attendance Office - Jean Del Rossi	4,153	7.5%	311	
Attendance Office - Marcella Rochelle	7,189	7.5%	539	
Teaching Clerk - Ethel Ketchem	5,382	100%	5,382	
Special Studies Clerk - Dorothy Crimmins	2,280	100%	2,280	
		Total Average	\$25,571	\$14.19

3. Supplemental

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Business Manager - Sam Donato	\$20,690*	3%	\$ 620	@ @ 1802
Supervisor - Karen Donohue	6,926*	20%	1,385	
Clerk - Angelina La Montia	2,900*	15%	435	
		Total Average	\$ 2,440	\$1.35

Report cards and attendance

Item	Quantity	Unit Price	Total Price
1. 1000	1000	1.00	1000.00
2. 500	500	2.00	1000.00
3. 250	250	4.00	1000.00
4. 125	125	8.00	1000.00
5. 62.5	62.5	16.00	1000.00
6. 31.25	31.25	32.00	1000.00
7. 15.625	15.625	64.00	1000.00
8. 7.8125	7.8125	128.00	1000.00
9. 3.90625	3.90625	256.00	1000.00
10. 1.953125	1.953125	512.00	1000.00
11. 0.9765625	0.9765625	1024.00	1000.00
12. 0.48828125	0.48828125	2048.00	1000.00
13. 0.244140625	0.244140625	4096.00	1000.00
14. 0.1220703125	0.1220703125	8192.00	1000.00
15. 0.06103515625	0.06103515625	16384.00	1000.00
16. 0.030517578125	0.030517578125	32768.00	1000.00
17. 0.0152587890625	0.0152587890625	65536.00	1000.00
18. 0.00762939453125	0.00762939453125	131072.00	1000.00
19. 0.003814697265625	0.003814697265625	262144.00	1000.00
20. 0.0019073486328125	0.0019073486328125	524288.00	1000.00
21. 0.00095367431640625	0.00095367431640625	1048576.00	1000.00
22. 0.000476837158203125	0.000476837158203125	2097152.00	1000.00
23. 0.0002384185791015625	0.0002384185791015625	4194304.00	1000.00
24. 0.00011920928955078125	0.00011920928955078125	8388608.00	1000.00
25. 0.000059604644775390625	0.000059604644775390625	16777216.00	1000.00
26. 0.0000298023223876953125	0.0000298023223876953125	33554432.00	1000.00
27. 0.00001490116119384765625	0.00001490116119384765625	67108864.00	1000.00
28. 0.000007450580596923828125	0.000007450580596923828125	134217728.00	1000.00
29. 0.0000037252902984619140625	0.0000037252902984619140625	268435456.00	1000.00
30. 0.00000186264514923095703125	0.00000186264514923095703125	536870912.00	1000.00
31. 0.000000931322574615478515625	0.000000931322574615478515625	1073741824.00	1000.00
32. 0.0000004656612873077392578125	0.0000004656612873077392578125	2147483648.00	1000.00
33. 0.00000023283064365386962890625	0.00000023283064365386962890625	4294967296.00	1000.00
34. 0.000000116415321826934814453125	0.000000116415321826934814453125	8589934592.00	1000.00
35. 0.0000000582076609134674072265625	0.0000000582076609134674072265625	17179869184.00	1000.00
36. 0.00000002910383045673370361328125	0.00000002910383045673370361328125	34359738368.00	1000.00
37. 0.000000014551915228366851806640625	0.000000014551915228366851806640625	68719476736.00	1000.00
38. 0.0000000072759576141834259033203125	0.0000000072759576141834259033203125	137438953472.00	1000.00
39. 0.00000000363797880709171295166015625	0.00000000363797880709171295166015625	274877906944.00	1000.00
40. 0.000000001818989403545856475830078125	0.000000001818989403545856475830078125	549755813888.00	1000.00
41. 0.0000000009094947017729282379150390625	0.0000000009094947017729282379150390625	1099511627776.00	1000.00
42. 0.00000000045474735088646411895751953125	0.00000000045474735088646411895751953125	2199023255552.00	1000.00
43. 0.000000000227373675443232059478759765625	0.000000000227373675443232059478759765625	4398046511104.00	1000.00
44. 0.0000000001136868377216160297393798828125	0.0000000001136868377216160297393798828125	8796093022208.00	1000.00
45. 0.00000000005684341886080801486968994140625	0.00000000005684341886080801486968994140625	17592186044416.00	1000.00
46. 0.000000000028421709430404007434844970703125	0.000000000028421709430404007434844970703125	35184372088832.00	1000.00
47. 0.0000000000142108547152020037174224853515625	0.0000000000142108547152020037174224853515625	70368744177664.00	1000.00
48. 0.00000000000710542735760100185871124267578125	0.00000000000710542735760100185871124267578125	140737488355328.00	1000.00
49. 0.000000000003552713678800500929355621337890625	0.000000000003552713678800500929355621337890625	281474976710656.00	1000.00
50. 0.0000000000017763568394002500464778106689453125	0.0000000000017763568394002500464778106689453125	562949953421312.00	1000.00
51. 0.00000000000088817841970012502323890533447265625	0.00000000000088817841970012502323890533447265625	1125899906842624.00	1000.00
52. 0.000000000000444089209850062511619452667236328125	0.000000000000444089209850062511619452667236328125	2251799813685248.00	1000.00
53. 0.0000000000002220446049250312558097263336181640625	0.0000000000002220446049250312558097263336181640625	4503599627370496.00	1000.00
54. 0.00000000000011102230246251562790486316680908203125	0.00000000000011102230246251562790486316680908203125	9007199254740992.00	1000.00
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63. 0.00000000000000021684043449710083575168587267425859375	0.00000000000000021684043449710083575168587267425859375	4611686018427387904.00	1000.00
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67. 0.000000000000000013552527156068802234480367042141162109375	0.000000000000000013552527156068802234480367042141162109375	73786976294838206464.00	1000.00
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73. 0.000000000000000000211758236813575034913750572533454939208984375	0.000000000000000000211758236813575034913750572533454939208984375	4722366482869645213696.00	1000.00
74. 0.0000000000000000001058791184067875174568750282667274696044921875	0.0000000000000000001058791184067875174568750282667274696044921875	9444732965739290427392.00	1000.00
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76. 0.000000000000000000026469779601696879364218757066681867401123046875	0.000000000000000000026469779601696879364218757066681867401123046875	37778931862957161709568.00	1000.00
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78. 0.00000000000000000000661744490042421984105468751766670435028076171875	0.00000000000000000000661744490042421984105468751766670435028076171875	151115727451828646838272.00	1000.00
79. 0.000000000000000000003308722450212109920527343750883335175140380859375	0.000000000000000000003308722450212109920527343750883335175140380859375	302231454903657293676544.00	1000.00
80. 0.0000000000000000000016543612251060549602636718750441667875701904296875	0.0000000000000000000016543612251060549602636718750441667875701904296875	604462909807314587353088.00	1000.00
81. 0.000000000000000000000827180612553027480131835937502208339378509521484375	0.000000000000000000000827180612553027480131835937502208339378509521484375	1208925819614629174706176.00	1000.00
82. 0.0000000000000000000004135903062765137400659179687501104166968926107421875	0.0000000000000000000004135903062765137400659179687501104166968926107421875	2417851639229258349412352.00	1000.00
83. 0.00000000000000000000020679515313825687003295898437500552084834630537109375	0.00000000000000000000020679515313825687003295898437500552084834630537109375	4835703278458516698824704.00	1000.00
84. 0.000000000000000000000103397576569128435016479492187500276042171652685546875	0.000000000000000000000103397576569128435016479492187500276042171652685546875	9671406556917033397649408.00	1000.00
85. 0.0000000000000000000000516987882845642175082397460937500138021085763427734375	0.0000000000000000000000516987882845642175082397460937500138021085763427734375	19342826227668133590598816.00	1000.00
86. 0.00000000000000000000002584939414228210875411987304687500069010542867138671875	0.00000000000000000000002584939414228210875411987304687500069010542867138671875	38685652455336267181197632.00	1000.00
87. 0.00000000000000000000001292469707114105437705993652343750003450527142856938671875	0.00000000000000000000001292469707114105437705993652343750003450527142856938671875	77371304910672534362395264.00	1000.00
88. 0.00000000000000000000000646234853557052718852996826171875000172526357142856938671875	0.00000000000000000000000646234853557052718852996826171875000172526357142856938671875	154742609821345068724790528.00	1000.00
89. 0.00000000000000000000000323117426778526359426498413085937500008626317857142856938671875	0.00000000000000000000000323117426778526359426498413085937500008626317857142856938671875	309485219642690137449581056.00	1000.00
90. 0.00000000000000000000000161558713389263179713249206542968750000431315892857142856938671875	0.00000000000000000000000161558713389263179713249206542968750000431315892857		

<u>Name</u>	<u>Salary</u>	<u>Daily \$180</u>	<u>Days of Service*</u>	<u>Cost</u>	<u>Per Pupil Cost</u>
David Poole	\$12,285	\$ 68	64		125
Robert Schmitt	11,320	62	78		125
Sally Healy	11,250	62	64		125
Connie Bentley	8,100	45	70		125
David Poole		68	64	\$ 43.52	\$ 34.81
Robert Schmitt		62	78	48.36	38.68
Sally Healy		62	64	39.68	31.74
Connie Bentley		45	70	31.50	25.20
			Total	\$163.06	\$130.43
			Average Per Pupil Per Class		32.60
			Average of 5.2** classes per pupil		169.52

D. Summary

1. From B-1 Special Staff	\$ 46.87
2. From B-2 Nonprofessional	14.19
3. From B-3 Supplemental	1.35
4. From C Typical Average Teacher Cost Times pupil periods	169.52
Total	\$231.93

* valuation, attendance and health per year.

**Mr. Vita Merola

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Corpus Christi Elementary School
Mineola, New York

Sister Louise Raah, Principal, welcomed me to the Corpus Christi Elementary School, Mineola, New York and served as my hostess for the day. This school of 859 students has a staff of 23 full time teachers and 2 part time employees. There is a program of educational departmentalization in grades four through eight.

I was able to interview one staff member from each grade level. Four were lay teachers and four were sisters of the participating religious community. I also interviewed the nurse and finally Sister Louise to secure data on the psychologist, the secretarial staff and general evaluation program, together with staff salaries. The psychologist served the school one day a week. During the day I also discussed the spirit of Chapter 138 of the Laws of 1970 with Father Thomas Murphy, Priest of the parish. It should be pointed out that the school enjoys good parent relations and has an intensive and effective program of volunteer assistants.

Corpus Christi Elementary School
Mincola, New York

Tabulation of Data

A. General

1. Number of students	-	859
2. Number of staff	-	23
Part time	-	2

B. Staff - Percentage - Mandated Services

1. Professional

<u>Name</u>	<u>Actual Salary</u>	<u>Donated Salary</u>	<u>Total Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Principal - Sister Louise Raah	\$ 2,400	\$ 6,200	\$ 8,600	27.5%	\$ 2,365	@ 859
Psychologist - Bruce Serhin	2,300		2,300	37.5%	862	
Nurse - Helen Johnson	11,400		11,400	75%	8,550	
			Total		\$11,777	
			Average Per Pupil			<u>\$13.7</u>

2. Nonprofessional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Principal's Secretary - Mrs. Cecilia Fleming	\$ 4,080	25%	\$ 1,020	@ 859
			Average Per Pupil	
				<u>\$1.18</u>

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Staff - Per Diem - Mandated Services

Professional Sample

<u>Name</u>	<u>Actual Salary</u>	<u>Donated Salary</u>	<u>Total Salary</u>	<u>Daily +180</u>	<u>Days of Service</u>	<u>Cost</u>	<u>Per Pupil Cost</u>
er Ann Marie	\$ 2,400	\$ 4,050	\$ 6,450	35	42	\$ 1,470	@37
or Braue	--	--	7,790	43	41	1,763	30
abeth Callison	--	--	6,450	35	50	1,750	36
e Feather	--	--	7,205	40	37	1,480	34
er Maria Dolorada	2,400	4,050	6,450	35	117	4,095	40
e Vinten	--	--	7,740	43	72	3,096	44
er Barbara Diradi	2,400	4,910	7,310	40	76	3,040	43
er Janet Edward	2,400	4,050	6,450	35	77	2,695	40
				Total		\$19,389	

<u>Name</u>	<u>Per Pupil Cost</u>
er Ann Marie	\$ 39.72
or Braue	58.76
abeth Callison	48.61
e Feather	43.52
er Maria Dolorada	102.37
e Vinten	70.36
er Barbara Diradi	70.69
r Janet Edward	67.37
Total	\$501.40
Average Per Pupil	62.67

Summary

1. From B-1 Special Staff	\$ 13.71
2. From B-2 Nonprofessional	1.18
3. From C Average Teacher	62.67
Total Per Pupil	77.56

Year	Month	Day	Time	Location	Remarks
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1960	1	3	10:00	1000	1000
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1960	8	13	10:00	1000	100

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Willis Avenue Elementary School
Mineola, New York

Dr. Wiley Bowyer, Principal, greeted me at the Willis Avenue Elementary School and served as my host for the day. In the early discussion of Chapter 138, I met Dr. William Hautt, Administrative Assistant of the Superintendent of Schools and Patricia Esculish, learning specialist. Through the good offices of Dr. Bowyer, I was able to interview, in addition to the above, one teacher from each of the three levels of the nongraded instructional program in operation at the Willis Avenue Elementary School. I also interviewed the school nurse teacher and Audrey Roberts, a representative of the instructional aides. It should be pointed out that the instructional aides assume a good portion of the clerical chores involved in testing students. The nongraded program gave rise to a discussion of testing and the performance requirements of each instructional level were accepted as mandated services in the approved definition of evaluation. The psychologist serves the school two days a week (40%) and the Administrative Assistant an estimated ten percent of his time as central office representative.

There are 375 students enrolled in the school with a staff of 16 teachers.

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**Willis Avenue Elementary School
Mineola, New York**

Tabulation of Data

General

1. Number of students	-	375
2. Number of staff - administrators	-	1
learning specialist	-	1
teachers	-	16
other professional	-	2
part time	-	3

Staff - Percentage - Mandated Services

1. Professional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Principal - Wiley Bowyer	\$23,525	17.5%	\$ 4,116	@375
Learning Specialist - Patricia Esculish	10,500	87.5%	9,187	
Administrative Assistant - William Haultt	15,000	2.5%*	375	
Teacher - Katherine McGuigan	9,325	60%	5,595	
Psychologist - Franklyn Eliot	18,250	38%**	6,935	
		Total	\$26,208	
	Average Per Pupil			\$69.88

% of 10%

% of 40%

2. Nonprofessional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Principal's Secretary - Lucia White	\$ 5,686	5%	\$ 284	@375
Instructional Aide - Audrey Roberts	4,659	30%	1,397	
General Office Secretary - Jean King	3,420*	10%	342	
45 hours per week @\$2.50 per hr. - 40 wks.	4,500	70%	3,150	
		Total	\$ 5,173	
	Average Per Pupil			\$13.79

\$2.50 per week x 40 wks.

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C. Staff - Per Diem - Mandated Services

Professional Sample

<u>Name</u>	<u>Salary</u>	<u>Daily \$180</u>	<u>Days of Services</u>	<u>Cost</u>	<u>Per Pupil Cost</u>
Virginia Stratar (Primary Level)	\$15,675	87	172	\$14,964	25
Barbara Trent (Middle Level)	9,500	52	204	10,608	25
Walter Bernstein (Upper Level)	10,470	58	64	<u>3,712</u>	25
			Total	\$29,284	
Virginia Stratar			172	\$14,964	\$ 598.56
Barbara Trent			204	10,608	424.32
Walter Bernstein			64	3,712	148.48
			Total		\$1,171.36
			Average Per Pupil		390.45

D. Summary

1. From B-1 Special Staff	\$ 69.88
2. From B-2 Nonprofessional	13.79
3. From C Average Teacher	<u>390.45</u>
Total	\$474.12

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Dutch Lane Elementary School
Bicksville, New York

Robert Whearty, principal, welcomed me to the Dutch Lane Elementary School and served as my host for the day. I interviewed Mr. Whearty, Assistant Principal, Mr. Fine, the guidance counselor, the principal's secretary and the nurse teacher. In addition, I interviewed a teacher from each of the grades 1-6 inclusive. Mr. Whearty provided me with salary data and information relative to the services of the school psychologist, who serves four days a week and the speech teachers who serve a total of three days weekly. There are 780 students and a staff of 28.

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Dutch Lane Elementary School
Hicksville, New York

Tabulation of Data

A. General

1. Number of students	-	780
2. Number of staff	-	
Principal	-	1
Asst. Principal	-	1
Guidance counselor	-	1 (Half time)
Psychologist	-	1 (80% of the time)
Speech teachers	-	2 (3 days a week)
Teachers	-	28

B. Staff - Percentage - Mandated Services

1. Professional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Principal - Robert Whearty	\$22,250	5%	\$ 1,112	@ 780
Asst. Principal - Sidney Fine	20,004	17.5%	3,500	
Guidance counselor - Martin Cohn	16,420	7.5% *	1,231	
Psychologist - Steven Botney	15,200	60% **	9,120	
Nurse - Johnsie Donovan	12,024	62.5%	7,515	
Speech Teacher - Astrida Silkaina	9,614	4%	384	
" " - Patricia Rose	9,200	2%	184	
		Total	<u>\$23,046</u>	
Average Per Pupil				\$29.54

15% x 50%

75% x 80%

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Continued

2. Nonprofessional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Principal's Secretary - Dorothy Gottlieb	\$5,500	20%	\$1,100	@ 780
" " - Vivian Sanders	6,300	20%	<u>1,200</u>	
		Total	\$2,360	
		Average Per Pupil		\$3.02

Staff - Per Diem Mandated Services

<u>Name</u>	<u>Salary</u>	<u>Daily •180</u>	<u>Days of Service</u>	<u>Cost</u>	<u>Per Pupil Cost</u>
Spiselman	\$15,040	83	41	\$ 3,403	28
Mon Dahlhery	15,680	87	40	3,480	28
ry Smith	16,480	91	39	3,549	26
O'Toole	9,376	52	89	4,628	24
ma Spector	11,336	62	95	5,890	28
eline Wicksel	12,024	66	93	<u>6,138</u>	29
			Total	\$27,088	

<u>Name</u>	<u>Per Pupil Cost</u>
Spiselman	\$ 121.53
Mon Dahlhery	124.28
ry Smith	136.50
O'Toole	192.83
ma Spector	210.35
eline Wicksel	<u>211.65</u>
Total	\$ 997.14
Average Per Pupil	\$ 166.19

Summary

1. From B-1 Special Staff	\$ 29.54
2. From B-2 Nonprofessional	3.02
3. From C Average Teacher	<u>166.19</u>
Total Average Per Pupil	\$198.75

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Holy Family Elementary School
Hicksville, New York

In the absence of the principal, Sister Eileen McMahon, I was welcomed by Sister Patricia Mary, a second grade teacher, and Mrs. Alice Brennan, the principal's secretary. This elementary school houses 910 students and has a staff of twenty-three regular teachers, four special teachers, a nurse and the principal.

During the day I also had the opportunity to discuss Chapter 138 with Msgr. Martin O'Dea and the president of the lay advisory board of education, Thomas Maloney.

With the cooperation of Sister Patricia I was able to interview a teacher representative from each grade (1-8), the nurse and the secretary. The school has no guidance or psychological service. The school does have parent volunteers.

In the absence of the President, Mr. Woodrow Wilson, I was
informed by Mr. [Name] that a meeting would be held at
the White House, at 10 o'clock, on Monday, Nov. 22, 1915.
The meeting was held at the White House, at 10 o'clock, on
Monday, Nov. 22, 1915. The meeting was held at the White
House, at 10 o'clock, on Monday, Nov. 22, 1915.

During the day, I was in the office of the President, and
was with him until 10 o'clock, when he went to the
White House, at 10 o'clock, on Monday, Nov. 22, 1915.

With the exception of a few minutes, I was with him
until 10 o'clock, when he went to the White House, at
10 o'clock, on Monday, Nov. 22, 1915. The meeting was
held at the White House, at 10 o'clock, on Monday, Nov. 22,
1915.

Holy Family Elementary School
Hicksville, New York

Tabulation of Data

General

1. Number of students	-	910
2. Number of staff	-	23
Specials	-	4
Nurse	-	1
Principal	-	1
(28 + principal)		

Staff - Percentage - Mandated Services

1. Professional

<u>Name</u>	<u>Actual Salary</u>	<u>Donated Salary</u>	<u>Total Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Principal - Sister Eileen McMahon	\$ 2,400	\$ 4,587	\$ 6,987	22.5%	\$ 1,572	@ 910
Nurse - Miss Helen Herkin			11,400	75 %	<u>8,550</u>	
			Total		\$10,122	
			Average			<u>\$11.12</u>

2. Nonprofessional

<u>Name</u>	<u>Salary</u>	<u>Percent Salary</u>	<u>Net</u>	<u>Per Pupil Cost</u>
Principal's Secretary - Mrs. Alice Brennan	\$ 2,600	23%	\$ 650	@ 910
			Average	<u>\$.71</u>

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Staff - Per Diem Mandated Services

<u>Name</u>	<u>Actual Salary</u>	<u>Donated Salary</u>	<u>Total Salary</u>	<u>Daily \$180</u>	<u>Days of Services</u>	<u>Cost</u>	<u>Per Pupil Cost</u>
ter Jeanne	\$ 2,400	\$ 4,745	\$ 7,145	39	43	\$ 1,677	@40
es McGinness			7,955	44	45	1,980	32
nces McCormack			8,815	48	55	2,640	43
ryann Cary			6,665	37	49	1,813	44
lyann White			8,170	45	111	4,995	46
ter Margaret	2,400	5,175	7,575	42	110	4,620	45
nn Pribek			6,665	37	91	3,367	40
ter Kathleen	2,400	4,315	6,715	37	117	<u>4,329</u>	45
Total						\$25,421	

<u>Name</u>	<u>Per Pupil Cost</u>
ter Jeanne	\$ 41.92
es McGinness	61.87
nces McCormack	61.39
ryann Cary	41.20
lyann White	108.58
ter Margaret	102.66
nn Pribek	84.17
ter Kathleen	<u>96.20</u>
Total	\$597.99
Average	<u>74.74</u>

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Summary

From B-1 Special Staff \$ 11.12

From B-2 Nonprofessional .71

From C Average Teacher 74.74

Total Per Pupil \$ 86.57

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SUMMARY OF DATA

- High Schools -

For the purpose of further consideration and discussion, we summarize the results of our secondary school sample herewith:

Holy Trinity High	-	\$ 232.90
Hicksville High School	-	361.72*
Chaminade High School	-	595.94
Mineola High School	-	231.93*

It is obvious that the per pupil cost for test evaluation is substantially higher at Chaminade High School. However, this data is skewed for two reasons, primarily. The inordinately rigorous curriculum at Chaminade for select students, standing at 7.8 class periods per student, makes the per pupil per class cost much higher. Secondly, the staff gives unstintingly of their own professional time, making for long hours devoted to student evaluation. In terms of seven-hour days, this makes costs higher.

Generally, the public schools have more or extra professionals working in the area of mandated services. However, in the parochial school the teacher tends to give more hours of service. The salary schedule of staff in the public schools is higher and staff costs in mandated services tends to be higher accordingly. Costs at Mineola High School were affected by the plan for individualization of instruction wherein performance or accomplishment were evaluated more extensively. However, early dismissal of work experience students at Mineola High School and their four or five period schedule tended to reduce per pupil cost in mandated services.

Per pupil class loads at the nonpublic schools--Chaminade = 7.8 periods per day and Holy Trinity 6.8 were much higher than the public schools--Hicksville = 5.6 and Mineola 5.2. These cost extensions, therefore, tended to keep the nonpublic schools relatively high in spite of lower salaries.

*Average per pupil cost times average number of pupil class periods.

High School

For the purpose of further consideration and discussion, we have

the results of our research and analysis herewith:

High School	High School
High School	High School
High School	High School
High School	High School

It is further noted that the results of our research and analysis are as follows:

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The average hours of service in the professional sample for mandated services was:

Holy Trinity High School	-	91 hours per child per year
Hicksville High School	-	65
Chaminade High School	-	154
Mineola High School	-	80

Again, we note the long hours of service by staff at Chaminade and Holy Trinity. The individualization of instruction and careful checks on attendance gave impetus to hours of service in the mandated area for Mineola High School.

The value of professional service computed by determining per diem remuneration computed as a seven hour day has been used but obviously does not reflect actual expenditure since religious educators donate large percentages of their equivalent salaries. In addition, all teachers give time after school, evenings or weekends as a part of their total professional service. This service does not generate additional compensation over that which the teacher would receive in a normal work day determined by check-in and check-out time, generally a seven hour day.

The following is a list of the names of the persons who have been appointed to the various positions in the office of the Secretary of the State of New York.

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John A. B. Smith, Secretary of the State of New York.

SUMMARY OF DATE

- Elementary Schools -

We summarize the results of our elementary school sample herewith:

Corpus Christi Elementary School	-	\$ 774.56
Willis Avenue Elementary School	-	474.12
Holy Family Elementary School	-	86.57
Dutch Lane Elementary School	-	198.75

One quickly notes the similarity of costs in the nonpublic schools and the disparity between nonpublic schools and public schools. Also, we note the unusually high costs at Willis Avenue. The quick answer to costs at Willis Avenue Elementary School is twofold. First the small enrollment at the school (i.e., 375) disproportionately increases costs. Secondly, the control staff is a costly item, especially when combined with the nongraded program of instruction which devotes more time--on an individual basis--to evaluation.

The average hours of service in the professional sample for mandated service was:

Corpus Christi Elementary School	-	64
Willis Avenue Elementary School	-	147
Holy Family Elementary School	-	78
Dutch Lane Elementary School	-	66

Here we get a much more comparable result of average teacher time devoted to mandated services. Again Willis Avenue Elementary School is inordinately high. It is reasoned the evaluation of students for the nongraded program, largely individualized and time consuming, is the basic reason. In all fairness we must point out the devotion of the teachers to the innovative plan and the hours spent in pupil evaluation.

Summary of Data

Elementary School

Grade 1	100
Grade 2	100
Grade 3	100
Grade 4	100
Grade 5	100
Grade 6	100

One of the main purposes of this study was to determine the effect of the various factors mentioned above on the results of the tests. The results of the tests are given in the table on page 10. It will be seen that the results are generally in line with the expectations. The results of the tests are given in the table on page 10. It will be seen that the results are generally in line with the expectations. The results of the tests are given in the table on page 10. It will be seen that the results are generally in line with the expectations.

The average score for the entire group was 75. The average score for the entire group was 75. The average score for the entire group was 75.

Grade 1	100
Grade 2	100
Grade 3	100
Grade 4	100
Grade 5	100
Grade 6	100

It will be seen that the results are generally in line with the expectations. The results of the tests are given in the table on page 10. It will be seen that the results are generally in line with the expectations. The results of the tests are given in the table on page 10. It will be seen that the results are generally in line with the expectations. The results of the tests are given in the table on page 10. It will be seen that the results are generally in line with the expectations.

FIELD SURVEY LIMITATIONS

- Comment -

✓ While we have delimited the survey quite extensively in part two, there are some further limitations which need to be mentioned.

1. First a survey of only eight schools is in itself insufficient to warrant drawing compelling conclusions. This survey is but a sample of eight schools in Nassau County.
2. The schools selected were all in Nassau County. Any statewide inferences from data selected from one wealthy county could well be erroneous.
3. The type of school selected generates for us interesting results which were not necessarily typical. For example, Chaminade, a private, selective Catholic high school, is quite unique and not necessarily typical.
- ✓ 4. As noted previously, time given by the professional staff to handle mandated services, especially testing, was often during out-of-school or after hours. No attempt has been made here to categorize time as "in-school" or "out-of-school" time. Largely this was part of professional expectancy but varies with individual teachers. Consequently, when this time is equated to a seven hour professional day at the salary paid the teacher, seemingly skewed results occur. However, in total it represents service to students within the mandated service expectancy.

It is the duty of the library to collect and preserve books of every kind and of every language.

It is the duty of the library to make its collections accessible to the public.

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5. Again, I note that costs for building, service, supplies, etc. have not been included. It is my understanding that these factors are being dealt with separately by other staff personnel.
6. While Chapter 138 covers assistance for examination and inspection, it also notes, "and through other activities" which tend to leave survey parameters sketchy or without precise definition. As pointed out previously, we have used "testing" as the parameter for evaluation. At times even testing became difficult to define. We included time for test preparation, administration, correction and follow up, since this all represented professional time for testing. We did not include time for evaluation unless it contained the tool and mechanic of test and recording. Obviously, there are numerous subtle services contained in the definition of evaluation but not included herewith.
7. It is also pointed out once again that costs for the nonpublic schools, include the factor of donated service by members of the several religious communities involved. If these salaries were taken as actual remuneration, costs would be less, but in the opinion of the writer, they represent professional service to the students and such donated or equated service should be included in cost comparisons.

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CONCLUSION

Without hesitation we can clearly point out that all schools sampled expend substantially more for mandated services than the State formula of reimbursement represents in assistance for the nonpublic schools, i.e., \$27 maximum for an elementary child and \$45 maximum for a secondary child. This leaves open for deliberation the possible increase in the provisions of Chapter 138. At the same time more precise verbiage in the law itself could either restrict or liberalize assistance. All of this, of course, is for staff service and not for buildings, equipment, supplies, etc.

This field survey gives limited data with restricted accuracy. More precise figures from the State generally would require much more time and inspection of many more schools either by questionnaire or staff visit over a wide geographical area or all representative areas.

BUREAU OF EDUCATIONAL STUDIES AND SERVICES
HOFSTRA UNIVERSITY
HEMPSTEAD, NEW YORK

REPORT SURVEY OF MANDATED SCHOOL SERVICES
FOR FIVE SELECTED PAROCHIAL SCHOOLS

February 23, 1971

Consultant: Dr. John L. Miller
Great Neck, New York

BACKGROUND

The 1970 session of the New York State Legislature enacted legislation providing for state aid for non-public schools for "expenses of services for examination and inspection in connection with administration, grading, and the compiling and the reporting of results of tests and examinations, maintenance of records of pupil enrollment and reporting thereon, maintenance of pupil health records, recording of personnel qualifications and characteristics and the preparation and submission to the state of various other reports as provided for or required by law or regulation." In order to obtain information on the services and estimates of their costs, Dr. Thomas Heath, Coordinator for Non-Public School Services of the State Education Department, engaged the Bureau of Educational Studies and Services of Hofstra University to survey five selected parochial schools, four in the Borough of Queens in New York City and one in Great Neck. The Bureau, in turn, engaged this investigator to make the survey and to prepare a report of the information obtained.

Interviews were held with teachers and the principal in each of the following schools which were designated by Dr. Heath:

St. Catherine of Sienna, 118-34 Riverton St., St. Albans, New York,
New York

Immaculate Conception, 179-14 Dalmy Road, Jamaica, New York

The Woodhull Prep & Day School, 196-10 Woodhull Ave., Hollis, N.Y.

Grace Lutheran School, 100-05 Springfield Blvd., New York, N.Y.

North Shore Hebrew Academy, 26 Old Mill Road, Great Neck, N.Y.

INTERVIEWING INSTRUMENT

In order to assure a reasonable degree of accuracy and reliability, interview guides were developed and used. This guide was in fact an adaptation of a guide prepared by Dr. Heath. It sought to secure information as to the number of days (or parts of days) spent in testing, in reporting to the State Education Department, and in the maintenance of pupil attendance and health records. Information was likewise secured as to the salaries of the third and sixth grade teachers interviewed.

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NEW YORK, NEW YORK

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SUMMARY

- 
1. It appears from the information accumulated that the teachers in the schools surveyed devoted an average of 10 school days per year to mandated services (PEP, BEDS, Attendance, etc.) and 52.4 days per year to testing (preparation, administration, marking, recording, etc.)
 2. It appears that the average annual salary of teachers in the schools visited is \$6230. This figure assumes the addition of the value of "donated services" (approximately \$8600 per teacher) to the actual salary of the teaching nun.
 3. If one assumes a teacher-work-year of 1080 hours (6 hours per day for 180 days) one arrives at an average cost per teacher per day of \$11.80 or \$2134.00 year.
 4. It appears from the information reported that the typical administrator spends 19 days per year in overseeing the testing program and in the preparation of various reports. An estimate of the cost per administrator is \$1446 per year.
 5. It appears that the average per-pupil cost of the various services studied is ~~\$82.50~~ per year. *Ch. 138 = \$ 27.00*
 6. It appears to this observer that the testing program is substantial, especially in the Roman Catholic parochial schools; that teacher tests and achievement tests are effectively used as instruments of diagnosis and prognosis; and that intelligence test results are used effectively for grouping procedures in the large schools.

OBSERVATIONS

1. In developing the "Summary for the School" the investigator averaged the time spent by interviewees and extended the figure to include the total teaching faculty.
2. To arrive at the average daily salary per teacher, the average annual salary was divided by the number of days in the school year.
3. The figures for St. Catherine of Sienna do not reflect the cost (\$2000) of the salary of a teaching nun who serves as a full-time testing coordinator.

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

It appears to this observer that the results of the study are consistent with the hypothesis that the use of a computerized system for the management of a large number of small, independent units can be more effective than the use of a traditional system. The results also suggest that the use of a computerized system can be more cost-effective than the use of a traditional system. The results of the study are consistent with the hypothesis that the use of a computerized system for the management of a large number of small, independent units can be more effective than the use of a traditional system. The results also suggest that the use of a computerized system can be more cost-effective than the use of a traditional system.

1. The "National" and "Nationalist" are the same thing. The "National" is the "Nationalist" and the "Nationalist" is the "National".

...and the average daily intake of food was 100 g.

of the section of a road which was never as a rule the

February 24, 1971

4. The figures for North Shore Hebrew Academy appear to be lower than actual costs, the reason being that the unduly long school day includes considerable time for religious instruction.
5. The investigator realizes that translation of out-of-school hours into school days inflates the number of days and likewise the cost of the service, because teachers are not given extra compensation for out of school time. Nevertheless, the value of the out-of-school service is apparent.

Completed Interview Guides enclosed.

John L. Miller
Consultant for
The Bureau of Educational
Studies and Services

The American people have been misled by the
press and the radio. The reason is that the
press and the radio are controlled by the
few who own the means of production.

The American people have been misled by the
press and the radio. The reason is that the
press and the radio are controlled by the
few who own the means of production.

and information is not shared.

John D. Rockefeller
Controlled the
The American people
and the radio.

INTERVIEW SCHEDULE

FOR SURVEY OF MANDATED SERVICES

ADMINISTRATIVE SCHEDULE

Date Feb. 18, 1991

Name of School North Shore Hebrew Academy

Address of School 16 Old Mill Rd, Great Neck

School Telephone Number 718-466-1111

Name of Principal David Nathan Horowitz

Name of Person Interviewed Same

Number of Classroom Teachers 13 Average Annual Salary of Lay Teachers \$52,000

Total Number of Pupils 260 No. on Full Session 200 No. on Part Session 60

Number of Classroom Teachers 13 Average Salary of Lay Teachers \$52,000

Number days school in session annually 171 Length of School Day 7 1/2 hours

Length of Part-Time School Day

Amount of administrative time spent annually
on the following services and the costs:
(Reported in full days and tenths of days (e.g. 1.2))

	Time (Days)	Cost
1. State Pupil Evaluation Program (PEP)	1.5	
2. State Basic Educational Data System (BEDS)	2	
3. Pupil Attendance Reports	2	
4. Other: Specify		
TOTALS	5.5	

Summary For The School

Total administrative time and cost

No. Days 5.5 Cost \$605

Total teacher time for mandated services

No. Days 40.6 Cost 1171

Total teacher time on school tests

No. Days 234 Cost 6716

TOTALS

No. Days 280.1 Cost 7492

Annual time and cost per pupil

No. Days Cost 942.46

COPY BOUND CLOSE TO EDGE

Date Feb. 18, 1971Name of School North Shore Hebrew Academy

Address of School _____

Salary: Actual \$3500 Donated Services _____ Total Salary _____Name of Teacher Karen Spierer Grade 6 No. Yrs. Teaching Exp. _____

Amount of Teacher's Time spent annually
on the following mandates services:
(Reported in full days and tenths of days (e.g. 1.2))

1. Administration of State Pupil Evaluation Program (PEP)
2. Completion of Basic Educational Data System Forms (BEDS)
3. Pupil attendance records and reports
4. Pupil health records and reports

Time Out Of School (days)	Time In School (days)	Total Time Annually (days)
.25	.5	.75
	2.25	2.25
TOTALS	.25	2.75
		3.00

Amount of Teacher's Time spent annually
on the following school testing program:
(Reported in full days and tenths e.g. 1.2)

1. Teacher-made tests (describe)
Scanned English Social Studies
2. Commercially Purchased Tests (list)
Metropolitan Achievement
3. Prepared textbook tests - end of chapter, etc. (list)

Time Out Of School For Preparation, Marking and Recording (days)	Time In School For Administration Supervision Marking and Recording (days)	Total Time (days)
10	8	18
1	.5	1.5
TOTALS	11	85
		19.5

SAMPLE

Totals

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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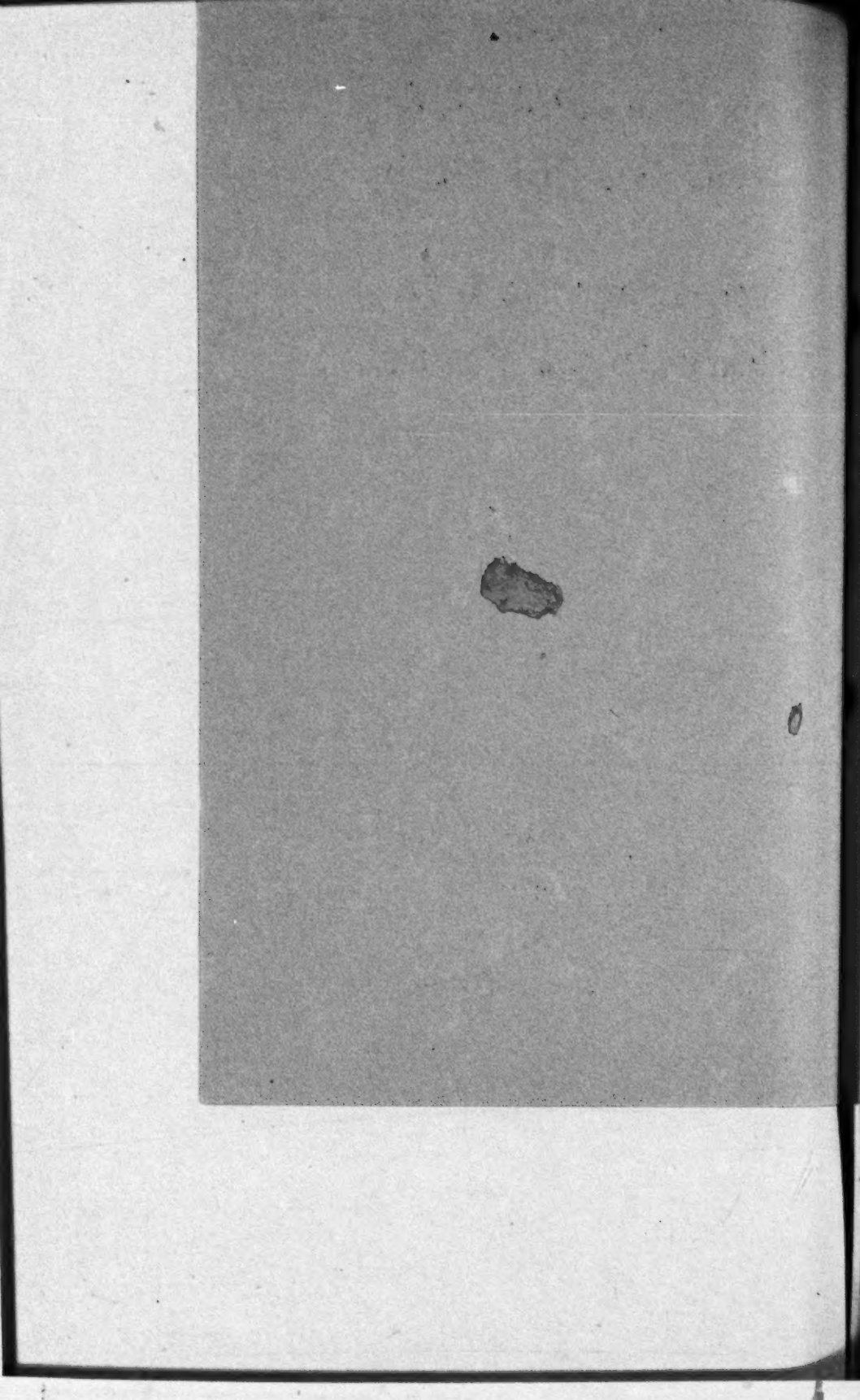


LAW REGULATIONS AND GUIDELINES

Apportionment to Nonpublic Schools

The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Albany, New York 12224
August, 1970

EXHIBIT E



LAW REGULATIONS AND GUIDELINES

Apportionment to Nonpublic Schools

[Faint signature]

The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Albany, New York 12224
August, 1970

THE UNIVERSITY OF THE STATE OF NEW YORK

Regents of the University (with years when terms expire)

1984	JOSEPH W. MCGOVERN, A.B., LL.B., L.H.D., LL.D., D.C.L., Chancellor	New York
1985	EVERETT J. PENNY, B.C.S., D.C.S. Vice Chancellor	White Plains
1978	ALEXANDER J. ALLAN, JR., LL.D., Litt.D.	Troy
1973	CHARLES W. MILLARD, JR., A.B., LL.D., L.H.D.	Buffalo
1972	CARL H. PFORZHEIMER, JR., A.B., M.B.A., D.C.S., H.H.D.	Purchase
1975	EDWARD M. M. WARBURG, B.S., L.H.D.	New York
1977	JOSEPH T. KING, LL.B.	Queens
1974	JOSEPH C. INDELICATO, M.D.	Brooklyn
1976	MRS. HELEN B. POWER, A.B., Litt.D., L.H.D.	Rochester
1979	FRANCIS W. MCGINLEY, B.S., LL.B., LL.D.	Glens Falls
1980	MAX J. RUBIN, LL.B., L.H.D.	New York
1971	KENNETH B. CLARK, A.B., M.S., Ph.D., Litt.D.	Hastings on Hudson
1982	STEPHEN K. BAILEY, A.B., B.A., M.A., Ph.D., LL.D.	Syracuse
1983	HAROLD E. NEWCOMB, B.A.	Owego
1981	THEODORE M. BLACK, A.B.	Sands Point

President of the University and Commissioner of Education
EWALD B. NYQUIST

Executive Deputy Commissioner of Education
GORDON M. AMBACH

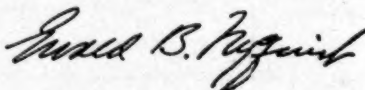
FOREWORD

Chapter 138 of the Laws of 1970 provides for the apportionment of state funds to qualifying nonpublic schools for expenses of services rendered by such schools in connection with examination and inspection.

In providing state funds for this purpose, the Legislature has recognized that the education of the children of the state is a matter of paramount state concern, and that the state has the duty and authority to insure through examination and inspection and by other means, that all of the young people of the state, regardless of the school in which they are enrolled, are attending upon instruction as required by the Education Law and are maintaining levels of achievement which will adequately prepare them, within their capabilities, for the challenges of American life in the last decades of the twentieth century.

This document consists of three parts: (1) excerpts from the State Education Law pertaining to aid to nonpublic schools; (2) pertinent Regents Rules and Commissioner's Regulations; and (3) administrative guidelines. It is designed to assist nonpublic school authorities to comply with the law.

The assistance of public and nonpublic school officials in planning for the administration of the law and in carrying it out is greatly appreciated.



EWALD B. NYQUIST
Commissioner of Education

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Relevant Statutory Provisions

CONTENTS

	PAGE
Foreword	iii
Chapter 138 of the Laws of 1970.....	1
Other Relevant Statutory Provisions.....	5
Rules of the Board of Regents.....	30
Regulations of the Commissioner of Education.....	31
Definitions and Guidelines	
I. Definitions	34
II. Criteria for appointment	37
III. Directions for completing application for nonpublic school apportionment	39
IV. Directions for completing nonpublic school apportionment worksheet	40
V. Payment of apportionment	41

CONTENTS

Page	
1	Introduction
2	Chapter I. The Law of 1900
3	Chapter II. The Law of 1901
4	Chapter III. The Law of 1902
5	Chapter IV. The Law of 1903
6	Chapter V. The Law of 1904
7	Chapter VI. The Law of 1905
8	Chapter VII. The Law of 1906
9	Chapter VIII. The Law of 1907
10	Chapter IX. The Law of 1908
11	Chapter X. The Law of 1909
12	Chapter XI. The Law of 1910
13	Chapter XII. The Law of 1911
14	Chapter XIII. The Law of 1912
15	Chapter XIV. The Law of 1913
16	Chapter XV. The Law of 1914
17	Chapter XVI. The Law of 1915
18	Chapter XVII. The Law of 1916
19	Chapter XVIII. The Law of 1917
20	Chapter XIX. The Law of 1918
21	Chapter XX. The Law of 1919
22	Chapter XXI. The Law of 1920
23	Chapter XXII. The Law of 1921
24	Chapter XXIII. The Law of 1922
25	Chapter XXIV. The Law of 1923
26	Chapter XXV. The Law of 1924
27	Chapter XXVI. The Law of 1925
28	Chapter XXVII. The Law of 1926
29	Chapter XXVIII. The Law of 1927
30	Chapter XXIX. The Law of 1928
31	Chapter XXX. The Law of 1929
32	Chapter XXXI. The Law of 1930
33	Chapter XXXII. The Law of 1931
34	Chapter XXXIII. The Law of 1932
35	Chapter XXXIV. The Law of 1933
36	Chapter XXXV. The Law of 1934
37	Chapter XXXVI. The Law of 1935
38	Chapter XXXVII. The Law of 1936
39	Chapter XXXVIII. The Law of 1937
40	Chapter XXXIX. The Law of 1938
41	Chapter XL. The Law of 1939
42	Chapter XLI. The Law of 1940
43	Chapter XLII. The Law of 1941
44	Chapter XLIII. The Law of 1942
45	Chapter XLIV. The Law of 1943
46	Chapter XLV. The Law of 1944
47	Chapter XLVI. The Law of 1945
48	Chapter XLVII. The Law of 1946
49	Chapter XLVIII. The Law of 1947
50	Chapter XLIX. The Law of 1948
51	Chapter L. The Law of 1949
52	Chapter LI. The Law of 1950
53	Chapter LII. The Law of 1951
54	Chapter LIII. The Law of 1952
55	Chapter LIV. The Law of 1953
56	Chapter LV. The Law of 1954
57	Chapter LVI. The Law of 1955
58	Chapter LVII. The Law of 1956
59	Chapter LVIII. The Law of 1957
60	Chapter LIX. The Law of 1958
61	Chapter LX. The Law of 1959
62	Chapter LXI. The Law of 1960
63	Chapter LXII. The Law of 1961
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65	Chapter LXIV. The Law of 1963
66	Chapter LXV. The Law of 1964
67	Chapter LXVI. The Law of 1965
68	Chapter LXVII. The Law of 1966
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70	Chapter LXIX. The Law of 1968
71	Chapter LXX. The Law of 1969
72	Chapter LXXI. The Law of 1970
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74	Chapter LXXIII. The Law of 1972
75	Chapter LXXIV. The Law of 1973
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77	Chapter LXXVI. The Law of 1975
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80	Chapter LXXIX. The Law of 1978
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82	Chapter LXXXI. The Law of 1980
83	Chapter LXXXII. The Law of 1981
84	Chapter LXXXIII. The Law of 1982
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86	Chapter LXXXV. The Law of 1984
87	Chapter LXXXVI. The Law of 1985
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89	Chapter LXXXVIII. The Law of 1987
90	Chapter LXXXIX. The Law of 1988
91	Chapter LXXXX. The Law of 1989
92	Chapter LXXXXI. The Law of 1990
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99	Chapter LXXXXVIII. The Law of 1997
100	Chapter LXXXXIX. The Law of 1998
101	Chapter LXXXXX. The Law of 1999
102	Chapter LXXXXXI. The Law of 2000
103	Chapter LXXXXXII. The Law of 2001
104	Chapter LXXXXXIII. The Law of 2002
105	Chapter LXXXXXIV. The Law of 2003
106	Chapter LXXXXXV. The Law of 2004
107	Chapter LXXXXXVI. The Law of 2005
108	Chapter LXXXXXVII. The Law of 2006
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111	Chapter LXXXXXX. The Law of 2009
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114	Chapter LXXXXXXIII. The Law of 2012
115	Chapter LXXXXXXIV. The Law of 2013
116	Chapter LXXXXXXV. The Law of 2014
117	Chapter LXXXXXXVI. The Law of 2015
118	Chapter LXXXXXXVII. The Law of 2016
119	Chapter LXXXXXXVIII. The Law of 2017
120	Chapter LXXXXXXIX. The Law of 2018
121	Chapter LXXXXXXX. The Law of 2019
122	Chapter LXXXXXXXI. The Law of 2020
123	Chapter LXXXXXXXII. The Law of 2021
124	Chapter LXXXXXXXIII. The Law of 2022
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130	Chapter LXXXXXXXIX. The Law of 2028
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132	Chapter LXXXXXXXXI. The Law of 2030
133	Chapter LXXXXXXXII. The Law of 2031
134	Chapter LXXXXXXXIII. The Law of 2032
135	Chapter LXXXXXXXIV. The Law of 2033
136	Chapter LXXXXXXXV. The Law of 2034
137	Chapter LXXXXXXXVI. The Law of 2035
138	Chapter LXXXXXXXVII. The Law of 2036
139	Chapter LXXXXXXXVIII. The Law of 2037
140	Chapter LXXXXXXXIX. The Law of 2038
141	Chapter LXXXXXXXX. The Law of 2039
142	Chapter LXXXXXXXXI. The Law of 2040
143	Chapter LXXXXXXXII. The Law of 2041
144	Chapter LXXXXXXXIII. The Law of 2042
145	Chapter LXXXXXXXIV. The Law of 2043
146	Chapter LXXXXXXXV. The Law of 2044
147	Chapter LXXXXXXXVI. The Law of 2045
148	Chapter LXXXXXXXVII. The Law of 2046
149	Chapter LXXXXXXXVIII. The Law of 2047
150	Chapter LXXXXXXXIX. The Law of 2048
151	Chapter LXXXXXXXX. The Law of 2049
152	Chapter LXXXXXXXXI. The Law of 2050
153	Chapter LXXXXXXXII. The Law of 2051
154	Chapter LXXXXXXXIII. The Law of 2052
155	Chapter LXXXXXXXIV. The Law of 2053
156	Chapter LXXXXXXXV. The Law of 2054
157	Chapter LXXXXXXXVI. The Law of 2055
158	Chapter LXXXXXXXVII. The Law of 2056
159	Chapter LXXXXXXXVIII. The Law of 2057
160	Chapter LXXXXXXXIX. The Law of 2058
161	Chapter LXXXXXXXX. The Law of 2059
162	Chapter LXXXXXXXXI. The Law of 2060
163	Chapter LXXXXXXXII. The Law of 2061
164	Chapter LXXXXXXXIII. The Law of 2062
165	Chapter LXXXXXXXIV. The Law of 2063
166	Chapter LXXXXXXXV. The Law of 2064
167	Chapter LXXXXXXXVI. The Law of 2065
168	Chapter LXXXXXXXVII. The Law of 2066
169	Chapter LXXXXXXXVIII. The Law of 2067
170	Chapter LXXXXXXXIX. The Law of 2068
171	Chapter LXXXXXXXX. The Law of 2069
172	Chapter LXXXXXXXXI. The Law of 2070
173	Chapter LXXXXXXXII. The Law of 2071
174	Chapter LXXXXXXXIII. The Law of 2072
175	Chapter LXXXXXXXIV. The Law of 2073
176	Chapter LXXXXXXXV. The Law of 2074
177	Chapter LXXXXXXXVI. The Law of 2075
178	Chapter LXXXXXXXVII. The Law of 2076
179	Chapter LXXXXXXXVIII. The Law of 2077
180	Chapter LXXXXXXXIX. The Law of 2078
181	Chapter LXXXXXXXX. The Law of 2079
182	Chapter LXXXXXXXXI. The Law of 2080
183	Chapter LXXXXXXXII. The Law of 2081
184	Chapter LXXXXXXXIII. The Law of 2082
185	Chapter LXXXXXXXIV. The Law of 2083
186	Chapter LXXXXXXXV. The Law of 2084
187	Chapter LXXXXXXXVI. The Law of 2085
188	Chapter LXXXXXXXVII. The Law of 2086
189	Chapter LXXXXXXXVIII. The Law of 2087
190	Chapter LXXXXXXXIX. The Law of 2088
191	Chapter LXXXXXXXX. The Law of 2089
192	Chapter LXXXXXXXXI. The Law of 2090
193	Chapter LXXXXXXXII. The Law of 2091
194	Chapter LXXXXXXXIII. The Law of 2092
195	Chapter LXXXXXXXIV. The Law of 2093
196	Chapter LXXXXXXXV. The Law of 2094
197	Chapter LXXXXXXXVI. The Law of 2095
198	Chapter LXXXXXXXVII. The Law of 2096
199	Chapter LXXXXXXXVIII. The Law of 2097
200	Chapter LXXXXXXXIX. The Law of 2098
201	Chapter LXXXXXXXX. The Law of 2099
202	Chapter LXXXXXXXXI. The Law of 2100

Relevant Statutory Provisions

Chapter 138 of the Laws of 1970

AN ACT

To provide for the apportionment of state monies to certain non-public schools in connection with inspection and examination, and making an appropriation therefor

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. It is hereby determined and declared as a matter of legislative finding:

That the state has a primary responsibility to assure that its precious resource, the young people of the state, receive educational opportunity which will prepare them for the challenges of American life in the last decades of the twentieth century.

That the state has the duty and authority to provide the means to assure, through examination and inspection, and through other activities, that all of the young people of the state, regardless of the school in which they are enrolled, are attending upon instruction as required by the education law and are maintaining levels of achievement which will adequately prepare them, within their capabilities.

That these fundamental objectives are accomplished with respect to public schools in part through the provision by the state of aid to local school districts to meet such costs.

Nonpublic schools of the state are responsible for the education of more than 850,000 pupils in the state in conformity with the compulsory education law, and it is a matter of state duty and concern that the attendance, examination and other administrative services of the schools which these children attend in fulfillment of the above state purposes are adequately assisted in furtherance of the general welfare and that in enacting this measure the legislature will be reasonably assisting such services.

§ 2. There shall be apportioned annually by the commissioner to each qualifying school, for school years beginning on and after July

[1]

first, nineteen hundred seventy, the amounts set forth below, out of funds appropriated therefor, for expenses of services for examination and inspection in connection with administration, grading and the compiling and reporting of the results of tests and examinations, maintenance of records of pupil enrollment and reporting thereon, maintenance of pupil health records, recording of personnel qualifications and characteristics and the preparation and submission to the state of various other reports as provided for or required by law or regulation. The amount to be apportioned to each qualifying school in each school year shall be the sum of the following:

- a. The product of fifteen cents multiplied by one hundred eighty multiplied by the average daily attendance in such school in the base year and receiving instruction in grades one through six; and
- b. The product of twenty-five cents multiplied by one hundred eighty multiplied by the average daily attendance in such school in the base year and receiving instruction in grades seven through twelve.

The apportionment shall be reduced by one one-hundred eightieth for each day less than one hundred eighty days that such school was actually in total session in the base year, except that the commissioner may disregard such reduction up to five days if he finds that the school was not in session for one hundred eighty days because of extraordinarily adverse weather conditions, impairment of heating facilities, insufficiency of water supply, shortage of fuel or the destruction of a school building, and if the commissioner further finds that such school cannot make up such days of instruction during the school year. No such reduction shall be made, however, for any day on which such school was in session for the purpose of administering the regents examinations or the regents scholarship examinations, on any day, not to exceed three days, when such school was not in session because of a conference of teachers called by the principal of the school.

§ 3. In this act:

1. "Average daily attendance" shall mean the total number of attendance days of enrolled pupils who are resident of the state during the base year divided by the number of days the school was in session during the base year; except that for the school year commencing July first, nineteen hundred seventy, the term "average daily attendance" means the total number of attendance days of such enrolled pupils during either September, October or November of such school year.

year, as selected by the school, divided by the number of days such school was in session during such month.

2. "Base year" shall mean the school year immediately preceding the current year, except that for the school year commencing July first, nineteen hundred seventy, the base year shall be such school year, and any reduction in aid required for such base year by virtue of the failure to maintain the required total session shall be made in the apportionment in the subsequent school year.

3. "Commissioner" shall mean the state commissioner of education.

4. "Current year" shall mean the school year during which an apportionment is to be paid pursuant to this chapter.

5. "Qualifying school" shall mean a nonprofit school in the state, other than a public school, which provides instruction in accordance with section thirty-two hundred four of the education law.

§ 4. Each school which seeks an apportionment pursuant to this act shall submit to the commissioner an application therefor, together with such additional reports and documents as the commissioner may require, at such times, in such form and containing such information as the commissioner may by regulation prescribe in order to carry out the purposes of this act.

§ 5. The amount to be apportioned to a school in any current year shall be paid in two installments, the first to consist of one-half of the estimated total apportionment and to be paid between January fifteenth and March fifteenth of such year; and the second to consist of the balance and to be paid between April fifteenth and June fifteenth of such year; provided that the commissioner may provide for later payments for the purpose of adjusting and correcting apportionments.

§ 6. Apportionments made for the benefit of any school which is not a corporate entity shall be paid, on behalf of such school, to such corporate body as may be designated for such purpose pursuant to regulations promulgated by the commissioner.

§ 7. The sum of twenty-eight million dollars (\$28,000,000) or so much thereof as may be necessary, is hereby appropriated to the education department out of any monies in the state treasury in the general fund to the credit of the local assistance fund not otherwise appropriated, for the purposes of this act. Such sum shall be payable

on order and warrant of the comptroller on vouchers certified or approved by the commissioner of education in the manner provided by law.

§ 8. Nothing contained in this act shall be construed to authorize the making of any payment under this act for religious worship or instruction.

§ 9. Any school receiving aid pursuant to this act shall be subject to the provisions of section three hundred thirteen of the education law.

§ 10. This act shall take effect September first, nineteen hundred seventy.

Other Relevant Statutory Provisions

§ 215. Visitation and reports

The regents, or the commissioner of education, or their representatives, may visit, examine into and inspect, any institution in the university and any school or institution under the educational supervision of the state, and may require, as often as desired, duly verified reports therefrom giving such information and in such form as the regents or the commissioner of education shall prescribe. For refusal or continued neglect on the part of any institution in the university to make any report required, or for violation of any law or any rule of the university, the regents may suspend the charter or any of the rights and privileges of such institution.

§ 313. [Discrimination in admission of applicants to educational institutions.]

(1) Declaration of policy. It is hereby declared to be the policy of the state that the American ideal of equality of opportunity requires that students, otherwise qualified, be admitted to educational institutions without regard to race, color, religion, creed or national origin, except that, with regard to religious or denominational educational institutions, students, otherwise qualified, shall have the equal opportunity to attend therein without discrimination because of race, color or national origin. It is a fundamental American right for members of various religious faiths to establish and maintain educational institutions exclusively or primarily for students of their own religious faith or to effectuate the religious principles in furtherance of which they are maintained. Nothing herein contained shall impair or abridge that right.

(2) Definitions. (a) Educational institution means any educational institution of post-secondary grade subject to the visitation, examination or inspection by the state board of regents or the state commissioner of education and any business or trade school in the state.

(b) Religious or denominational educational institution means an educational institution which is operated, supervised or controlled by a religious or denominational organization and which has certified to the state commissioner of education that it is a religious or denominational educational institution.

(3) Unfair educational practices. It shall be an unfair educational practice for an educational institution after September fifteenth, nineteen hundred forty-eight:

(a) To exclude or limit or otherwise discriminate against any person or persons seeking admission as students to such institution because of race, religion, creed, color, or national origin; except that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its students exclusively or primarily from members of such religion or denomination or from giving preference in such selection to such members or to make such selection of its students as is calculated by such institution to promote the religious principles for which it is established or maintained.

(b) To penalize any individual because he has initiated, testified, participated or assisted in any proceedings under this section.

(c) To accept any endowment or gift of money or property conditioned upon teaching the doctrine of supremacy of any particular race.

(d) It shall not be an unfair educational practice for any educational institution to use criteria other than race, religion, creed, color or national origin in the admission of students.

(4) Certification of religious and denominational institutions. An educational institution operated, supervised or controlled by a religious or denominational organization may, through its chief executive officer, certify in writing to the commissioner that it is so operated, controlled or supervised, and that it elects to be considered a religious or denominational educational institution, and it thereupon shall be deemed such an institution for the purposes of this section.

(5) Procedure. (a) Any person seeking admission as a student who claims to be aggrieved by an alleged unfair educational practice, hereinafter referred to as the petitioner, may himself, or by his parent or guardian, make, sign and file with the commissioner of education a verified petition which shall set forth the particulars thereof and contain such other information as may be required by the commissioner. The commissioner shall thereupon cause an investigation to be made in connection therewith; and after such investigation if he shall determine that probable cause exists for crediting the allegations of the petition, he shall attempt by informal methods of persuasion, conciliation or mediation to induce the elimination of such alleged unfair educational practice.

- (b) Where the commissioner has reason to believe that an applicant or applicants have been discriminated against, except that preferential selection by religious or denominational institutions of students of their own religion or denomination shall not be considered an act of discrimination, he may initiate an investigation on his own motion.
- (c) The commissioner shall not disclose what takes place during such informal efforts at persuasion, conciliation or mediation nor shall he offer in evidence in any proceeding the facts adduced in such informal efforts.
- (d) A petition pursuant to this section must be filed with the commissioner within one year after the alleged unfair educational practice was committed.
- (e) If such informal methods fail to induce the elimination of the alleged unfair educational practice, the commissioner shall have power to refer the matter to the board of regents which shall issue and cause to be served upon such institution, hereinafter called the respondent, a complaint setting forth the alleged unfair educational practice charged and a notice of hearing before the board of regents, at a place therein fixed to be held not less than twenty days after the service of said complaint.
- Any complaint issued pursuant to this section must be issued within two years after the alleged unfair educational practice was committed.
- (f) The respondent shall have the right to answer the original and any amended complaint and to appear at such hearing by counsel, present evidence and examine and cross-examine witnesses.
- (g) The commissioner and the board of regents shall have the power to subpoena witnesses, compel their attendance, administer oaths, take testimony under oath and require the production of evidence relating to the matter in question before it or them. The testimony taken at the hearing, which shall be public shall be under oath and shall be reduced to writing and filed with the board of regents.
- (h) After the hearing is completed the board of regents shall file an intermediate report which shall contain its findings of fact and conclusions upon the issues in the proceeding. A copy of such report shall be served on the parties to the proceeding. Any such party within twenty days thereafter, may file with the regents exceptions to the findings of fact and conclusions, with a brief in support thereof, or may file a brief in support of such findings of fact and conclusions.
- (i) If, upon all the evidence, the regents shall determine that the respondent has engaged in an unfair educational practice, the regents

shall state their findings of fact and conclusions and shall issue and cause to be served upon such respondent a copy of such findings and conclusions and an order requiring the respondent to cease and desist from such unfair educational practice, or such other order as they deem just and proper.

(j) If, upon all the evidence, the regents shall find that a respondent has not engaged in any unfair educational practice, the regents shall state their findings of fact and conclusions and shall issue and cause to be served on the petitioner and respondent, a copy of such findings and conclusions, and an order dismissing the complaint as to such respondent.

(6) Judicial review and enforcement. (a) Whenever the board of regents has issued an order as provided in this section it may apply to the supreme court for the enforcement of such order by a proceeding brought in the supreme court within the third judicial district. The board of regents shall file with the court a transcript of the record of its hearing, and the court shall have jurisdiction of the proceeding and of the questions determined therein, and shall have power to make an order annulling or confirming, wholly or in part, or modifying the determination reviewed. The order of the supreme court shall be subject to review by the appellate division of the supreme court and the court of appeals, upon the appeal of any party to the proceeding, in the same manner and with the same effect as provided on an appeal from a final judgment made by the court without a jury.

(b) Any party to the proceeding, aggrieved by a final order of the board of regents, may obtain a judicial review thereof by a proceeding under article seventy-eight of the civil practice law and rules, which shall be brought in the appellate division of the supreme court for the third judicial department.

(7) Regents empowered to promulgate rules and regulations. The regents from time to time may adopt, promulgate, amend or rescind rules and regulations to effectuate the purposes and provisions of this section.

(8) The commissioner shall include in his annual report to the legislature (1) a resume of the nature and substance of the cases disposed of through public hearings, and (2) recommendations for further action to eliminate discrimination in education if such is needed.

§ 801. Courses of instruction in patriotism and citizenship and in certain historic documents

1. In order to promote a spirit of patriotic and civic service and obligation and to foster in the children of the state moral and intellectual qualities which are essential in preparing to meet the obligations of citizenship in peace or in war, the regents of The University of the State of New York shall prescribe courses of instruction in patriotism and citizenship, to be maintained and followed in all the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools, over the age of eight years, shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools over eight years of age shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils of like age in the public schools of the city or district in which such pupils reside.

2. The regents shall prescribe courses of instruction in the history, meaning, significance and effect of the provisions of the constitution of the United States, the amendments thereto, the declaration of independence, the constitution of the state of New York and the amendments thereto, to be maintained and followed in all of the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools, in the eighth and higher grades, shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools in grades or classes corresponding to the instruction in the eighth and higher grades of the public schools shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils in the public schools of the city or district in which such pupils reside.

3. The regents shall determine the subjects to be included in such courses of instruction in patriotism and citizenship and in the history,

meaning, significance and effect of the provisions of the constitution of the United States, the amendments thereto, the declaration of independence, the constitution of the state of New York and the amendments thereto, and the period of instruction in each of the grades in such subjects. They shall adopt rules providing for attendance upon such instruction and for such other matters as are required for carrying into effect the objects and purposes of this section. The commissioner of education shall be responsible for the enforcement of such section and shall cause to be inspected and supervise the instruction to be given in such subjects. The commissioner may, in his discretion, cause all or a portion of the public school money to be apportioned to a district or city to be withheld for failure of the school authorities of such district or city to provide instruction in such courses and to compel attendance upon such instruction, as herein prescribed, and for a non-compliance with the rules of the regents adopted as herein provided.

4. The regents shall designate a week during each year and prescribe a uniform course of exercises in the public schools of the state suitable for pupils of various ages to instill into the minds of such pupils the purpose, meaning and importance of the bill of rights articles in the federal and state constitutions. Such exercises shall be in addition to any prescribed courses of study in the schools.

§ 802. Instruction relating to the flag; holidays

1. It shall be the duty of the commissioner of education to prepare for the use of the public schools of the state, a program providing for a salute to the flag and a daily pledge of allegiance to the flag, instruction in its correct use and display and such other patriotic exercises as may be deemed by him to be expedient, under such regulation and instructions as may best meet the varied requirements of the different grades in such schools.

2. It shall also be his duty to make special provision for the observance in the public schools of Lincoln's birthday, Washington's birthday, Memorial day and Flag day, and such other legal holidays of like character as may be hereafter designated by law when the legislature makes an appropriation therefor.

3. Nothing herein contained shall be construed to authorize military instruction or drill in the public schools during school hours.

§ 803. Instruction in physical education and kindred subjects

1. All pupils above the age of eight years in all elementary and secondary schools, shall receive as part of the prescribed courses of instruction therein such physical education under the direction of the commissioner of education as the regents may determine. Such courses shall be designed to aid in the well-rounded education of pupils and in the development of character, citizenship, physical fitness, health and the worthy use of leisure. Pupils above such age attending the public schools shall be required to attend upon such prescribed courses of instruction.
2. The board of education or trustees of every school district regularly employing twenty or more teachers shall employ a teacher or teachers qualified and duly licensed under the regulations of the regents to give such instruction; in every other district of the state, they shall require such instruction to be given by the teacher or teachers regularly employed to give instruction in other subjects or by a teacher or teachers qualified and duly licensed under the regulations of the regents.
3. The boards of education or trustees of two or more contiguous districts in the same supervisory district, however, may join in the employment of a teacher qualified and duly licensed under the regulations of the regents to give such instruction; and the salary of such teacher and the expenses incurred on account of such instruction shall be apportioned by the district superintendent among such districts according to the assessed valuation thereof, and as so apportioned shall be a charge upon each of such districts.
4. Similar courses of instruction shall be prescribed and maintained in private schools in the state and all pupils in such schools over eight years of age shall attend upon such courses; and if such courses are not so established and maintained in any private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to children of like ages in the public school or schools of the city or district in which the child resides.
5. It shall be the duty of the regents to adopt rules determining the subjects to be included in courses of physical education provided for in this section, the period of instruction in each of such courses, the qualifications of teachers, and the attendance upon such courses of instruction.
6. The physical education hereinbefore provided for, may be given, when practicable, in any armory of the state where such armory is

within convenient distance from the school, and at such times and in such manner as not to interfere with the regular military uses of such armory. The commanding officer in charge of any such armory shall, upon application made by any board of education or trustees of the several cities and school districts within the state, permit access to any such armory, for the purposes herein mentioned.

§ 804. Instruction regarding nature of alcoholic drinks

1. The nature of alcoholic drinks and their effects on the human system shall be taught in connection with the various divisions of physiology and hygiene as thoroughly as are other branches in all schools under state control, or supported wholly or in part by public money of the state, and also in all schools connected with reformatory institutions.

2. All pupils in the above-mentioned schools below the second year of the high school and above the third year of school work computing from the beginning of the lowest primary, not kindergarten, year, or in corresponding classes of ungraded schools, shall be taught and shall study this subject every year with suitable text-books in the hands of all pupils, for not less than three lessons a week for ten or more weeks, or the equivalent of the same in each year, and must pass satisfactory tests in this as in other studies before promotion to the next succeeding year's work; except that, where there are nine or more years below the high school, the study may be omitted in all years above the eighth year and below the high school, by such pupils as have passed the required tests of the eighth year.

3. In all schools above-mentioned, all pupils in the lowest three primary, not kindergarten, school years or in corresponding classes in ungraded schools shall each year be instructed in this subject orally for not less than two lessons a week for ten weeks, or the equivalent of the same in each year, by teachers using text-books adapted for such oral instruction as a guide and standard, and such pupils must pass such tests in this as may be required in other studies before promotion to the next succeeding year's work. Nothing in this section shall be construed as prohibiting or requiring the teaching of this subject in kindergarten schools.

4. The local school authorities shall provide needed facilities and definite time and place for this branch in the regular courses of study.

5. The textbooks in the pupils' hands shall be graded to the capacities of fourth year, intermediate, grammar and high school pupils, or

to corresponding classes in ungraded schools. For students below high school grade, such textbooks shall give at least one-fifth their space, and for students of high school grade, shall give not less than twenty pages to the nature and effects of alcoholic drinks. This subject must be treated in the textbooks in connection with the various divisions of physiology and hygiene, and pages on this subject in a separate chapter at the end of the books shall not be counted in determining the minimum. No textbook on physiology not conforming to this section shall be used in the public schools.

6. All regents' examinations in physiology and hygiene shall include a due proportion of questions on the nature of alcoholic drinks and their effects on the human system.

7. In all state teachers colleges and state colleges for teachers adequate time and attention shall be given to instruction in the best methods of teaching this branch, and no teacher shall be licensed who has not passed a satisfactory examination in the subject and the best methods of teaching it.

§ 804-a. Instruction regarding the nature and effects of narcotics and habit-forming drugs

1. The courses of study beyond the first eight years of full time public day schools shall provide for instruction in the nature and effects on the human system of narcotics and habit-forming drugs, in accordance with the provisions of this section.

2. It shall be the duty of the commissioner to prescribe such courses of instruction as he may deem necessary and desirable for the welfare of the student and the community. The contents of such courses may be varied to meet the needs of particular school districts, or portions thereof, and need not be uniform throughout the state. The courses shall emphasize desirable health habits, attitudes and knowledge of the effects of narcotics and habit-forming drugs upon the physical, mental and emotional development of children and youth.

3. The local school authorities shall provide needed facilities and definite time and place for such subjects as prescribed by the commissioner.

4. Similar courses of instruction shall be prescribed and maintained in all private secondary schools in this state.

5. In all state teachers colleges and state colleges for teachers adequate time and attention shall be given to instruction in the best methods of teaching such subjects, and no teacher shall be licensed to teach

at the secondary level who has not passed a satisfactory examination in such subjects and the best methods of teaching them. Added L. 1952, c. 413, § 2, eff. July 1, 1952.

§ 805. Enforcement

1. On satisfactory evidence that any teacher has wilfully refused to teach such subjects, as provided in sections eight hundred four and eight hundred four-a, the commissioner of education shall revoke the license of such teacher.

2. No public money of the state shall be apportioned by the commissioner of education or paid for the benefit of any city school district of a city having one hundred twenty-five thousand inhabitants or more according to the latest federal census until the superintendent of schools therein shall have filed with the treasurer or chamberlain of such city an affidavit, and with the commissioner of education a duplicate of such affidavit, that he has made thorough investigation as to the facts, and that to the best of his knowledge, information and belief, all the provisions of sections eight hundred four and eight hundred four-a have been complied with in all the schools under his supervision in such district during the last preceding legal school year.

3. No public money of the state shall be apportioned by the commissioner of education or by district superintendents, or paid for the benefit of any school district, including city school districts of cities having less than one hundred twenty-five thousand inhabitants according to the latest federal census, until the president of the board of education, or in the case of common school districts the trustee or any member of the board of trustees, shall have filed with the district superintendent having jurisdiction or, in the case of such a city school district, or other district having its own superintendent of schools, with the commissioner of education, an affidavit that he has made thorough investigation as to the facts and that to the best of his knowledge, information and belief, all the provisions of sections eight hundred four and eight hundred four-a have been complied with in such district, which affidavit shall be included in the trustees' annual report.

4. It shall be the duty of every district superintendent to file with the commissioner of education an affidavit in connection with his annual report, showing all districts in his jurisdiction that have and those that have not complied with all the provisions of sections eight hundred four and eight hundred four-a, according to the best of his knowledge, information and belief, based upon a thorough investigation by him as to the facts.

5. No public money of the state shall be apportioned or paid for the benefit of any school mentioned herein until the officer having jurisdiction or supervision thereof shall have filed with the commissioner of education an affidavit that he has made thorough investigation as to the facts and that to the best of his knowledge, information and belief, all the provisions of sections eight hundred four and eight hundred four-a relative thereto have been complied with.

6. The principal of each state teachers college and state college for teachers in the state shall at the close of each school year file with the commissioner of education an affidavit that all the provisions of sections eight hundred four and eight hundred four-a applicable thereto have been complied with during the school year just terminated and until such affidavit shall be filed no warrant shall be issued by the commissioner of education for the payment by the treasurer of any part of the money appropriated for such school.

7. It shall be the duty of the commissioner of education to provide blank forms of affidavit required herein for use by the local school officers, and he shall include in his annual report a statement showing every school district which has failed to comply with all the provisions of sections eight hundred four and eight hundred four-a during the preceding school year.

8. On complaint by appeal to the commissioner of education by any patron of the schools mentioned in sections eight hundred four and eight hundred four-a or by any citizen that any provision of such sections has not been complied with in any city or district, the commissioner of education shall make immediate investigation, and on satisfactory evidence of the truth of such complaint, shall thereupon and thereafter withhold all public money of the state to which such city or district would otherwise be entitled, until all the provisions of such sections shall be complied with in said city or district.

§ 806. Courses of instruction in highway safety and traffic regulation; school safety patrols

1. The regents of The University of the State of New York shall prescribe courses of instruction in highway safety and traffic regulation, to be maintained and followed in all the schools of the state. The boards of education and trustees of the several cities and school districts of the state shall require instruction to be given in such courses, by the teachers employed in the schools therein. All pupils attending such schools shall attend upon such instruction.

Similar courses of instruction shall be prescribed and maintained in private schools in the state, and all pupils in such schools shall attend upon such courses. If such courses are not so established and maintained in a private school, attendance upon instruction in such school shall not be deemed substantially equivalent to instruction given to pupils of like grade in the public schools in the city or district in which such pupils reside.

2. The regents shall determine the subjects to be included in such courses of instruction in highway safety and traffic regulation, and the period of instruction in each of the grades in such subjects. They shall adopt rules providing for attendance upon such instruction and for such other matters as are required for carrying into effect the teaching of the courses of instruction prescribed by this section. The commissioner of education shall be responsible for the enforcement of such section and shall cause to be inspected and supervise the instruction to be given in such subjects. The commissioner may, in his discretion, cause all or a portion of the public school money to be apportioned to a district or city to be withheld for failure of the school authorities of such district or city to provide instruction in such courses and to compel attendance upon such instruction, as herein prescribed, and for a noncompliance with the rules of the regents adopted as herein provided.

3. Any board of education or school district board is empowered to organize in the school over which it has control a school safety patrol and, with the written consent of the parents, to appoint pupils as members thereof for the purpose of influencing and encouraging the safe use of highways and highway crossings by the pupils of the school. Nothing herein contained shall be construed to authorize or permit the use of any safety patrol member for the purpose of directing vehicular traffic nor shall any safety patrol member be stationed in that portion of the highway intended for the use of vehicular traffic. Such patrol shall function only under the direction and control of the principal or teacher in charge of such school. No liability shall attach either to the school district or any individual, trustee, board member, superintendent, principal, teacher or other school authority by virtue of the organization, maintenance or operation of a school safety patrol organized, maintained and operated under authority of this section.

§ 807. Fire drills

1. It shall be the duty of the principal or other person in charge of every public or private school or educational institution within the

state, other than colleges or universities, having more than twenty-five pupils, or maintained in a building two or more stories high to instruct and train the pupils by means of drills, so that they may in a sudden emergency be able to leave the school building in the shortest possible time and without confusion or panic. Such drills or rapid dismissals shall be held at least twelve times in each school year, eight of which required drills shall be held between September first and December first of each such year. At least one-third of all such required drills shall be through use of the fire escapes on buildings where fire escapes are provided. At least four additional drills shall be held in each school year during the hours after sunset and before sunrise in school buildings in which students are provided with sleeping accommodations. At least two additional drills shall be held during summer school in buildings where summer school is conducted, and one of such drills shall be held during the first week of summer school.

3. It shall be the duty of the person in charge of every public or private college or university within the state, having more than twenty-five students, or maintained in a building two or more stories high to instruct and train the students by means of drills, so that they may in a sudden emergency be able to leave the college or university building in the shortest possible time and without confusion or panic. Such drills shall be held at least three times in each year, one of which required drills shall be held between September first and December first of each such year. In buildings where summer sessions are conducted, one of such required drills shall be held during the first week of such summer session. At least one of such required drills shall be through use of the fire escapes on buildings where fire escapes are provided. At least one additional drill shall be held in each year during the hours after sunset and before sunrise in college or university buildings in which students are provided with sleeping accommodations.

4. Neglect by any principal or other person in charge of any public or private school or educational institution to comply with the provisions of this section shall be a misdemeanor punishable at the discretion of the court by a fine not exceeding fifty dollars; such fine to be paid to the pension fund of the local fire department where there is such a fund.

§ 807-a. Fire inspections

1. It shall be the duty of the school authorities in general charge of the operation of any public or private school to cause the buildings

of such school containing classroom, dormitory, laboratory, physical education, dining or recreational facilities for student use to be inspected at least annually for fire hazards which might endanger the lives of students, teachers and employees therein.

2. The annual fire inspection shall be made prior to the first day of December of every school year and the report thereof shall be filed by the school authorities in the places required by subdivision five of this section no later than the sixteenth day of December of every such year.

3. a. The school authorities shall cause any fire inspection pursuant to this section to be made by one of the following methods, or any combination of such methods:

(1) Employing, either regularly or specially, persons who, in the judgment of the school authorities, are qualified to make such an inspection, or any phase thereof.

(2) Contracting for the making of such inspections, or any phase thereof, by persons who, in the judgment of the school authorities, are qualified.

(3) Requesting inspection by the fire department of any city, town, village or fire district in which the building is located.

(4) Requesting inspection by a fire corporation which is subject to the provisions of article ten of the membership corporations law, if such building is located within the area described in the certificate of incorporation of any such corporation.

(5) Requesting inspection by the county fire coordinator, or the officer performing the powers and duties of a county fire coordinator pursuant to a local law, of the county in which the building is located, or by any deputy county fire coordinator or deputy of such other officer so performing the powers and duties of a county fire coordinator designated to make the inspection by the county fire coordinator or such other officer so performing the powers and duties of a county fire coordinator, if the building is located outside a city, town, village, or fire district, which has its own fire department and outside the area described in the certificate of incorporation of any fire corporation which is subject to the provisions of article ten of the membership corporations law.

b. If any such inspection, or phase thereof, is to be made by either of the methods specified in subparagraphs (1) and (2) of paragraph a of this subdivision, the school authorities shall give reasonable notice of the date and time such inspection is to be made to the chief engineer or other comparable officer, of any fire department, or fire corporation.

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which has the regular duty of fighting fire in the building to be inspected. Such officer, or any subordinate designated by him, may be present during the inspection and may also file a report of inspection in the manner provided in this section.

c. If any fire department or fire corporation described in subparagraphs (3) and (4) of paragraph a of this subdivision shall fail or refuse to make a fire inspection promptly after having been requested to do so by the school authorities, the school authorities may request the county fire coordinator, or the officer performing the powers and duties of a county fire coordinator pursuant to a local law, of the county in which the building is located to make such inspection. It shall be the duty of the county fire coordinator, or such other officer so performing the powers and duties of a county fire coordinator, in such case to make such inspection or cause it to be made by a deputy whom he shall designate.

d. Regardless of the method or methods used to accomplish the inspection required by this section, the person making the inspection shall file the report thereof with the school authorities no later than the first day of December.

4. The director of the division of fire safety of the office for local government in the executive department shall prescribe the form of the fire inspection report. The commissioner of education shall furnish a supply of such form to school authorities.

5. The report of any fire inspection shall be filed in the office of the school authorities and, in the case of private schools, the report also shall be filed in the office of the director of division of fire safety of the office for local government in the executive department and, in the case of public schools, the report also shall be filed with the commissioner of education. All such reports so filed in any public office shall be kept as public records for at least three years after which period they may be destroyed.

6. It shall be the duty of the commissioner of education, in the case of public schools, and the director of the division of fire safety, in the case of private schools, to ascertain annually whether the inspections of school buildings required by this section have been made and the reports of the inspection have been filed in their respective offices. The commissioner of education, in the case of public schools, and the director of the division of fire safety, in the case of private schools, shall review the reports of inspection filed pursuant to this section and may make recommendations to the school authorities with respect to any

problems relating to school fire safety noted in such reports. The commissioner of education, in the case of public schools, and the director of the division of fire safety, in the case of private schools, may inspect or cause to be inspected at any reasonable time for fire prevention and fire protection purposes the school buildings required to be inspected by this section.

7. Every public or private school required to be inspected as hereinabove provided may be inspected for fire prevention and fire protection purposes at any reasonable time by

- a. the chief of the fire department of the city, town, village or fire district in which the school is located,
- b. the chief of a fire corporation having its headquarters outside a village or fire district, if the school is located in the area described in the certificate of incorporation of such company,
- c. the chief of the fire department or fire company affording fire protection to a fire district, fire protection district, or fire alarm district pursuant to a contract, if the school is located in any such district,
- d. the member of any fire department or fire company listed in paragraphs a, b or c of this subdivision assigned by the chief thereof the duty of inspecting college buildings.

8. Any person, or any public or other corporation for which any such person acts, shall not be liable for any error, omission or lack of thoroughness in the making of the inspection and report required or permitted by this section.

9. The term "school authorities", as used in this section, means, in relation to public schools, the trustees, or board of education, or corresponding officers, whether one or more, and by whatever name known of a city school district, or other school district however created, or, in relation to private schools, the board of trustees, board of directors, or other governing board in general charge of the operation of any such school.

10. The term "private school", as used in this section, means:

- a. Any nursery school or kindergarten attended by six or more pupils three years of age or older which may apply for registration by the New York state education department pursuant to part one hundred twenty-five of title eight of the official compilation of codes, rules and regulations of the state of New York; provided, however, that this section shall not apply to day care facilities possessing a valid permit as required by section three hundred ninety of the social welfare law; or

b. Any establishment, other than a public school, attended by twenty-five or more pupils for the purpose of receiving the instruction of academic grade at the elementary or secondary level required by part one of article sixty-five of this chapter.

11. This section shall not apply to the school authorities in any city having one hundred twenty-five thousand or more inhabitants according to the latest federal census or to colleges and universities.

§ 807-c. Transmission of fire alarm to fire department. (1) The school authorities designated in subdivision nine of section eight hundred seven-a of this chapter in charge of the operation of any public school or of any private school designated in subdivision ten of such section, located in an area within which a fire department or fire company is responsible for fire protection and within which there is no electrically or electronically operated fire alarm reporting system provided for public use shall cause the internal fire alarm, fire detection, or fire protection system of each building in which is contained classroom, dormitory, laboratory, physical education, dining or recreational facilities for student use to be interconnected by direct wire with the fire alarm reporting location or system which is provided for such fire department or fire company to receive alarms from the public so that upon activation of such internal fire alarm, fire detection, or fire protection system a signal will be automatically transmitted to such fire alarm reporting location or system.

(2) In lieu of such interconnection by direct wire, upon agreement between such school authorities and such fire department or company such signal may be transmitted by radio wave.

§ 2. This act (§ 807-c) shall take effect September first, nineteen hundred seventy-one.

§ 808. Instruction in fire prevention

1. The commissioner of education is hereby directed to provide and prescribe a course of instruction in fire prevention relating to the protection of life and property against loss or damage as a result of preventable fire, for use in the schools of the state, as prescribed by this section.

2. The board of education, trustees, principal or other person in charge of every public, private and parochial school in the state shall arrange for giving such course of instruction in every school under its or his control or direction. Such instruction shall be given to all of the pupils in every such school for a period of not less than fifteen minutes in each week during which such school is in session.

§ 809. Instruction in the humane treatment of animals and birds

The officer, board or commission authorized or required to prescribe courses of instruction shall cause instruction to be given in every elementary school under state control or supported wholly or partly by public money of the state, in the humane treatment and protection of animals and birds and the importance of the part they play in the economy of nature. Such instruction shall be for such period of time during each school year as the board of regents may prescribe and may be joined with work in literature, reading, language, nature study or ethnology. Such weekly instruction may be divided into two or more periods. A school district shall not be entitled to participate in the public school money on account of any school or the attendance at any school subject to the provisions of this section, if the instruction required hereby is not given therein.

§ 809-a. Instruction in the safe use of firearms and in the game laws

The officer, board, or commission authorized or required to prescribe courses of instructions in any school under state control, may authorize instructions to be given in the safe and proper use of firearms, and may also authorize instructions to be given in the study of game laws and of proper hunting and conservation practices. Such courses of instruction shall be approved by both the education department and the conservation department.

§ 810. Conservation day

1. The last Friday in April each year is hereby made and declared to be known as Conservation day, and observed in accordance with the provisions of this chapter.

2. It shall be the duty of the authorities of every public school in this state to assemble the pupils in their charge on that day in the school building, or elsewhere, as they may deem proper, and to provide for and conduct (1) such exercises as shall tend to encourage the planting, protection and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results, and (2) such lectures, pictures or tours, as shall tend to increase the interest and knowledge of such pupils in the fish and wild life, soil and water of the state.

3. The commissioner of education may prescribe from time to time a course of exercises and instruction in the subjects hereinbefore mentioned, which shall be adopted and observed by the public school authorities on Conservation day. Upon receipt of copies of such course sufficient in number to supply all the schools under their supervision, the school authorities aforesaid shall promptly provide each of the schools under their charge with a copy, and cause it to be observed.

§ 811. Procurement, use and possession of hypodermic syringes and needles by school personnel for educational purposes

1. Notwithstanding the provisions of section seventeen hundred forty-seven-d of the penal law, it shall be lawful for authorized persons under the jurisdiction of the public school authorities in a public school; or of the state education department; or of the governing board of any other educational institution, the curriculum of which is registered by the department, to purchase, acquire, have under control, possess and use hypodermic syringes and needles for instructional or other educational purposes provided such school authorities in the case of a school district, the appropriate superior officer in the case of the department, or such governing board in the case of other institutions, has filed with the commissioner of education and with the state department of health a certificate of need for such hypodermic needles which shall set forth the following:

a. The legal designation and address of the school district, if a public school or if another school or institution, the name and address thereof, and the exact location where such hypodermic syringes and needles will be used and stored.

b. The name and address of the chief administrative officer of the school or institution.

c. The use proposed to be made of such hypodermic needles.

d. The names of persons employed in the school, the department, or other institution authorized to have custody and/or use of such hypodermic needles.

e. The safeguards to be taken to prevent such instruments from falling into the hands of unauthorized persons.

f. The disposition which will be made of unwanted or broken syringes and needles. In the case of the department such certificate shall be made and filed by the assistant commissioner under whose supervision the work involving the use of such hypodermic syringes or needles is done, and a duplicate thereof shall be filed with the state department of health.

2. Nothing contained in this section shall be construed to require the filing of such names by medical institutions, including but not limited to public health centers, industrial clinics, diagnostic, treatment or research centers, rehabilitation facilities, nursing homes, medical schools or colleges, tuberculosis, mental, chronic disease and other types of hospitals, clinical laboratories, outpatient departments, nurses training facilities and central service facilities operated in conjunction with medical institutions.

3. The commissioner, after consultation with the commissioner of health, shall make regulations for the administration of this section.

§ 3002. Oath to support federal and state constitutions

It shall be unlawful for any citizen of the United States to serve as teacher, instructor or professor in any school or institution in the public school system of the state or in any school, college, university or other educational institution in this state, whose real property, in whole or in part, is exempt from taxation under section four of the tax law unless and until he or she shall have taken and subscribed the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States of America and the constitution of the State of New York, and that I will faithfully discharge, according to the best of my ability, the duties of the position of..... (title of position and name or designation of school, college, university or institution to be here inserted), to which I am now assigned."

The oath required by this section shall be administered by the president or other head of such school, college, university or institution, or by the officer or person, or in the case of a board or body by a member of the board or body, having authority to employ such person as a teacher, instructor or professor in such school, college, university or institution, and each is hereby authorized to administer it. The officer, person or member administering such oath shall cause a record or notation of the fact to be made in the books or records of the school, college, university or institution. In lieu of the oath administered by an officer, person or member, an employee may comply with the requirements of this section by subscribing and filing the following statement: "I do hereby pledge and declare that I will support the constitution of the United States and the constitution of the State of New York, and that I will faithfully discharge the duties of the position of according to the best of my ability." Such

oath or statement shall be filed with the clerk of a school district or with such officer or employee of any such college, university or other educational institution that shall be designated for such purpose. Such oaths or statements shall be available for public inspection and for transmittal to the commissioner of education upon his request. It shall be unlawful for an officer, person or board having control of the employment, dismissal or suspension of teachers, instructors or professors in such a school, college, university or institution, to permit a person to serve in any such capacity therein in violation of the provisions of this section. This section shall not be construed to require a person to take such oath or to execute such statement more than once during the time he or she is employed in the same school, college, university or institution, though there be a change in the title or duties of the position.

The provisions of section sixty-two of the civil service law shall not apply to a person who is required to take the oath or execute the statement prescribed by this section.

NOTE: Civil Service Law, Section sixty-two, relates to employees of the State and its civil divisions other than school districts.

§ 3204. Instruction required

1. Place of instruction. A minor required to attend upon instruction by the provisions of part one of this article may attend at a public school or elsewhere. The requirements of this section shall apply to such a minor, irrespective of the place of instruction.

2. Quality and language of instructions; text-books. Instruction may be given only by a competent teacher. In the teaching of the subjects of instruction prescribed by this section, English shall be the language of instruction, and text-books used shall be written in English, except that for a period of three years from the date of enrollment in school, pupils who, by reason of foreign birth, ancestry or otherwise, experience difficulty in reading and understanding English, may, in the discretion of the board of education, board of trustees or trustee, be instructed in all subjects in their native language and in English. Instruction given to a minor elsewhere than at a public school shall be at least substantially equivalent to the instruction given to minors of like age and attainments at the public schools of the city or district where the minor resides.

2-a. Bilingual instruction in schools. 1. The governing board of any school district is hereby empowered to determine the circumstances and necessity wherein instruction shall be given bilingually. The said governing board shall design the necessary procedures and acquire the necessary training materials and equipment to meet the special educational needs of children of limited English speaking ability through programs designed to accomplish the following:

- a. bilingual education;
- b. to impart to students a knowledge of the history and culture associated with their languages;
- c. to establish closer cooperation between the school and the home;
- d. to provide early childhood educational programs related to the purposes of this section and designed to improve the potential for profitable learning activities by children;
- e. to provide adult education programs related to the purposes of this section, particularly for parents of children participating in bilingual programs;
- f. to provide programs designed for dropouts or potential dropouts having need of bilingual programs;
- g. to provide programs to be conducted by accredited trade, vocational or technical schools; and
- h. to provide other activities deemed desirable to further the purposes of this section.

2. Any duly authorized local educational agency or agencies is hereby empowered to make application for any grant or grants in furtherance of this section under Title VII Public Law 90-247 as enacted by the United States Congress January second, nineteen hundred sixty-eight.

3. Courses of study. a. (1) The course of study for the first eight years of full time public day schools shall provide for instruction in at least the twelve common school branches of arithmetic, reading, spelling, writing, the English language, geography, United States history, civics, hygiene, physical training, the history of New York state and science.

(2) The courses of study and of specialized training beyond the first eight years of full time public day schools shall provide for instruction in at least the English language and its use, in civics, hygiene, physical training, and American history including the principles of government proclaimed in the Declaration of Independence and established by the constitution of the United States.

b. For part time day schools. The course of study of a part time public day school shall include such subjects as will enlarge the civic and vocational intelligence and skill of the minors required to attend.

c. For evening schools. In a public evening school instruction shall be given in at least speaking, reading, and writing English.

d. For parental schools. In a parental school provision shall be made for vocational training and for instruction in other subjects appropriate to the minor's age and attainments.

e. Changes in courses of study. The state education department shall have power to alter the subjects of instruction as prescribed in this section.

(3) The courses of study beyond the first eight years of full time public day schools may provide a program for a course in "communism and its methods and its destructive effects."

4. Length of school sessions. a. A full time day school or class, except as otherwise prescribed, shall be in session for not less than one hundred ninety days each year, inclusive of legal holidays that occur during the term of said school and exclusive of Saturdays.

5. Subject to rules and regulations of the board of regents, a pupil may, consistent with the requirements of public education and public health, be excused from such study of health and hygiene as conflicts with the religion of his parents or guardian. Such conflict must be certified by a proper representative of their religion as defined by section two of the religious corporations law.

(The 190 days required by paragraph four no longer holds. Section 3604 on which State aid is based was amended in 1958 to provide for a session of 180 days. Through oversight, Section 3204, paragraph 4 was not amended. The intent is to require 180 days of instruction.)

§ 3210. Amount and character of required attendance

1. Regularity and conduct. a. A minor required by the provisions of part one of this article to attend upon instruction shall attend regularly as prescribed where he resides or is employed, for the entire time the appropriate public schools or classes are in session and shall be subordinate and orderly while so attending.

b. Absence for religious observances and education shall be permitted under rules that the commissioner shall establish.

2. Attendance elsewhere than at a public school. a. Hours of attendance. If a minor included by the provisions of part one of this

article attends upon instruction elsewhere than at a public school, he shall attend for at least as many hours, and within the hours specified therefor.

b. Absence. Absence from required attendance shall be permitted only for causes allowed by the general rules and practices of the public schools. Absence for religious observance and education shall be permitted under rules that the commissioner shall establish.

c. Holidays and vacations. Holidays and vacations shall not exceed in total amount and number those allowed by the public schools.

d. Exception. In applying the foregoing requirements a minor required to attend upon full time day instruction by the provisions of part one of this article may be permitted to attend for a shorter school day or for a shorter school year or for both, provided, in accordance with the regulations of the state education department, the instruction he receives has been approved by the school authorities as being substantially equivalent in amount and quality to that required by the provisions of part one of this article.

§ 3211. Records of attendance upon instruction

1. Who shall keep such record. The teacher of every minor required by the provisions of part one of this article to attend upon instruction, or any other school district employee as may be designated by the commissioner of education under section three thousand twenty-four of this chapter, shall keep an accurate record of the attendance and absence of such minor. Such record shall be in such form as may be prescribed by the commissioner of education.

2. Certificates of attendance to be presumptive evidence. A duly certified transcript of the record of attendance and absence of a child which has been kept, as provided in this section, shall be accepted as presumptive evidence of the attendance of such child in any proceeding brought under the provisions of part one of this article.

3. Inspection of records of attendance. An attendance officer, or any other duly authorized representative of the school authorities, may at any time during school hours, demand the production of the records of attendance of minors required to be kept by the provisions of part one of this article, and may inspect or copy the same and make all proper inquiries of a teacher or principal concerning the records and the attendance of such minors.

4. Duties of principal or person in charge of the instruction of a minor. The principal of a school, or other person in charge of the

instruction upon which a minor attends, as provided by part one of this article, shall cause the record of his attendance to be kept and produced and all appropriate inquiries in relation thereto answered as hereinbefore required. He shall give prompt notification in writing to the school authorities of the city or district of the discharge or transfer of any such minor from attendance upon instruction, stating the date of the discharge, its cause, the name of the minor, his date of birth, his place of residence prior to and following discharge, if such place or residence be known, and the name of the person in parental relation to the minor.

Rules of The Board of Regents

3.36 Nonpublic schools. The Commissioner of Education, with the approval of the Regents, shall promulgate regulations relating to the apportionment of funds to nonpublic schools pursuant to the provisions of Chapter 138 of the Laws of 1970.

Regulations of The Commissioner

101.7 Pupil attendance record keeping. (a) *Definitions.* Whenever used in this section, the following terms shall have the respective meanings hereinafter set forth or indicated:

(1) *Pupil.* A child enrolled in any public school in the State of New York.

(2) *Register of attendance.* Any book, card or other form used to keep a record or list or account of attendance, absence and tardiness of a pupil, the form of which shall have been approved by the Commissioner of Education.

(3) *Teacher.* A member of the teaching and supervisory staff of a school district of the State.

(4) *Employee other than a teacher.* A suitable person other than a teacher employed by a school district of the State in a position appropriate for the keeping of records.

(b) The record of each pupil's attendance, absence and tardiness shall be kept by each school district in a register of attendance in a manner approved by the Commissioner of Education.

(c) The register of attendance shall set forth at least the following for each pupil:

- (1) name;
- (2) date of birth;
- (3) full names of parents or guardians;
- (4) address.

(d) All entries in a register of attendance shall be made either by a teacher or by an employee other than a teacher designated by the board of education.

(e) The board of education shall designate a teacher to supervise the keeping of the register of attendance where an employee other than a teacher is designated by the board of education as the person to make entries in the register of attendance.

(f) The entries in the register of attendance shall be verified by the oath or affirmation of the person making the entries in the register of attendance.

PART 176

Apportionments to Nonpublic Schools in Connection with Examination and Inspection

Section 176. *Qualification.* To qualify for apportionments of State monies in connection with examination and inspection pursuant to the provisions of Chapter 138 of the Laws of 1970, a nonpublic school shall meet each of the following requirements:

(a) All teachers serving on the staff of such school shall either possess a valid teacher's certificate issued by the commissioner, or shall be certified by the chief administrative officer of such school as meeting all the requirements of such school for the position in which the teacher serves.

(b) Such school shall conduct in all grades in which instruction is offered a continuing program of individual pupil testing designed to provide an adequate basis for evaluating pupil achievement, and in addition shall administer, rate and report the results of all specific tests or examinations which may be prescribed by the commissioner.

(c) Such school, if it offers instruction at the secondary level (any of the grades seven through twelve) shall submit annually to the State Education Department, at such time and in such form as the commissioner may require, a *Secondary School Report (Private Schools)*.

(d) Such school shall submit annually to the State Education Department, at such time and in such form as the commissioner may require, a *Report of Non-public Schools (Basic Educational Data System)*.

(e) Such school shall submit to the State Education Department at such times and in such form as the commissioner may require, such additional information as may be specified by the commissioner pursuant to the provisions of Education Law Section 215.

(f) Such school shall maintain, in a form and manner specified by the commissioner, a register of the attendance of each pupil enrolled in the school. All such registers shall be retained by the school for a period of not less than fifty years following the close of the school year for which each such register was maintained, and shall be made available for inspection by authorized representatives of the State Education Department upon request. Summaries of such attendance registers shall be submitted annually to the State Education Department at such time and in such form as the commissioner shall prescribe.

(g) Such school shall be organized and conducted solely for educational purposes, and no part of its assets or income shall be distributable to or enure to the benefit of any shareholder, director, officer or employee, except for reasonable compensation for services rendered. If such school is a corporation, it shall possess a valid and current certificate of exemption from taxation issued pursuant to United States Internal Revenue Code Section 501 (c) (3).

Section 177. Application for apportionment.

(a) Each application by a nonpublic school for an apportionment of State monies in connection with examination and inspection pursuant to Chapter 138 of the Laws of 1970 shall be submitted to the State Education Department at such time and in such form as the commissioner shall prescribe, and shall certify that throughout the "base year," as defined in Chapter 138, the school did in all respects comply with, and during the "current year," as defined in Chapter 138, the school will comply with all the provisions of Education Law sections 313, 801 through 811, 3204 and 3210, paragraph 2, to the extent that such provisions are applicable to a school offering instruction in the grades conducted by the school submitting such application.

(b) A school which elects to be considered a religious or denominational educational institution for the purposes of Education Law section 313 shall submit to the State Education Department, with the application referred to in subdivision (a) of this section, a certification, in the form prescribed by the commissioner, pursuant to the provisions of paragraph (4) of section 313 of the Education Law.

Section 178. Payment of apportionments.

(a) Apportionments to a qualifying school which is incorporated by the Board of Regents or pursuant to a general or special law shall be paid to the corporation.

(b) Apportionments to a qualifying school which is not incorporated shall be paid, on behalf of such school, to a corporate body, designated by such school and approved by the commissioner, whose corporate purposes include the supervision or support of such school, or if there is no such corporate body, to a corporation authorized to do business in this state which is designated by such school, with the approval of the commissioner, for the purpose of receiving such payments for the benefit of such school.

Definitions and Guidelines

INSTRUCTIONS FOR COMPLETING REQUIRED REPORTS INCLUDING APPLICATION AND APPORTIONMENT WORKSHEET

I. DEFINITIONS

1. *Attendance.* Attendance shall be kept in accordance with the Commissioner's Regulation 101.7, paragraph (2).
If you wish to purchase "attendance registers," they may be obtained from the following publishers:
C. F. Williams, 883 Broadway, Albany, N.Y.
Bardeen and Company, 543 E. Genesee St., Syracuse, N.Y.
J. L. Hammett and Company, 89 Broad St., Lyons, N.Y.
Williamson Law Book Company, 2011 E. Main St.
Rochester, N.Y.
Decker Supplies, Brookfield, N.Y.
Gerald Crane Printing Co., 493 S. Legion Drive, Buffalo, N.Y.
Sidney Favorite Printing Co., 22 River St., Sidney, N.Y.
Otto Schmidt and Son, Inc., 117 S. Fourth St., New Hyde Park, N.Y.
Webster Paper and Supply Company, Central Terminal Warehouse, Colony and Montgomery Streets, Albany, N.Y.
2. *Aggregate Attendance* is the total number of days all pupils attended during the year.
3. *Average Daily Attendance (ADA)* is the total number of attendance days of enrolled pupils who are residents of the State of New York during the base year divided by the number of days school was in session during the base year.
4. *Attendance Records.* Instruction VII, section 6 of Register of Attendance refers to register periods "as eight to ten periods." *Ignore this instruction.* For the first year of non-public school apportionment attendance will be determined by a choice of attendance kept for either September, or October, or November, whichever provides the largest apportionment.
5. *Base Year* is the school year immediately preceding the current year; except for school year 1970-71, the base year shall be such school year.

6. *Chief Administrative Officer* is the person who is ultimately responsible for the operation, administration, and supervision of the school including the pupils and its staff, such as the principal of the school or the superintendent or someone with another title but with the same duties.
7. *Commissioner* is the Commissioner of Education.
8. *Corporate Entity* is the school which is incorporated by the Board of Regents or pursuant to a general or special law; or a corporate body designated by such school and approved by the Commissioner, whose corporate purpose includes the supervision or support of such school; or any other corporate body approved by the Commissioner.
9. *Current Year* is the school year during which an apportionment is to be paid pursuant to this chapter.
10. *Days in Session or Actual Session* is the number of days school was actually in session and attendance was kept. *N.B.* See definition Total Session.
11. *Eligible schools.* All nonpublic schools are eligible to apply for the apportionment including those schools covered by sections 4001, 4201 and 4407 of the Education Law.
12. *Legal Holidays.* Schools may not be in session on a Saturday or Sunday, nor on any legal holiday except General Election Day, Lincoln's Birthday, Washington's Birthday. School authorities may decide whether school will be in session on these three legal holidays. When school is in session on these three days, they are counted toward the 180-day requirement. This does not prevent a nonpublic school from being in session on Saturday, or a legal holiday; however, such sessions may not be counted toward the 180-day requirement.
 Legal holidays are as follows: Labor Day, Columbus Day, General Election Day, Veteran's Day, Thanksgiving Day, Christmas Day, New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day and Independence Day.
13. *Net Aggregate Attendance* is the aggregate attendance less the aggregate attendance of non-resident pupils.
14. *Non-Profit School* is a school organized and conducted solely for educational purposes, and no part of its assets or income shall be distributable to or enure to the benefit of any share-

holder, director, officer or employee, except for reasonable compensation for services rendered. If such school is a corporation, it shall possess a valid and current certificate of exemption from taxation issued pursuant to United States Internal Revenue Code Section 501 (c) (3).

15. *Nonpublic School* is any school other than public being operated in accordance with the compulsory education law.
16. *Non-resident Pupil* is a pupil who is not a resident of New York State.
17. *Possible Aggregate Attendance* is the total number of days of attendance for all pupils if they were present on every day they were enrolled.
18. *Reports.* The reports listed below together with their due dates are required to qualify for the payment of aid.
 - a) Attendance Report — due July 15 following the completion of the school year.
 - b) Basic Educational Data System, Report of Nonpublic Schools — due November 1.
 - c) Certificate of Religious or Denominational Institution — due November 1.
 - d) Secondary School Report

grade 7 to 12 form	}	due
grade 7 to 9 form	}	October 15
 - e) Application for Nonpublic School Apportionment — due November 1.
 - f) Nonpublic School Apportionment Worksheet — due January 4
19. *Report Forms — How to Obtain.* Report forms will be mailed to all nonpublic schools known to the State Education Department. (Those schools which have been completing the Basic Educational Data System Report.) Others should write to the New York State Education Department (Nonpublic School Aid), Albany, New York 12224.
20. *Religious or Denominational Education Institutions.* Any school where preference is granted a certain religious group in regard to admission must file a *Certificate of Religious or Denominational Institution* in accordance with Section 312 of the Education Law. All children shall have the equal opportunity to attend therein without discrimination because of race, color or national origin.

21. *Qualifying School* is a non-profit school in the State, other than a public school, which provides instruction in accordance with Section 3204 of the Education Law.
22. *Total Session* is the number of days school was actually in session in the base year and must equal 180 days, except that the Commissioner may disregard such reduction up to five days if he finds that the school was not in session for 180 days because of extraordinary adverse weather conditions, impairment of heating facilities, insufficiency of water supply, shortage of fuel or the destruction of a school building, and if the Commissioner further finds that such school cannot make up such days of instruction during the school year. No such reduction shall be made, however, for any day on which such school was in session for the purpose of administering the Regents examinations or the Regents scholarship examinations, or any day, not to exceed three days, when such school was not in session because of a conference of teachers called by the principal of the school or superintendent of the school system. *N.B.* See definition of Days in Session.
23. *Ungraded students.* When students are in ungraded classes or when students are not classified by grade, the students who are age thirteen and over shall eligible for a secondary school apportionment.

II. CRITERIA FOR APPORTIONMENT

Each nonpublic school must certify that it is:

1. A non-profit school in the State, other than a public school, which provides instruction in accordance with section 3204 of the Education Law;
2. Providing instruction for all students without regard to race, color, religion, creed or national origin, except that with regard to religious or denominational educational institutions, students otherwise qualified shall have the equal opportunity to attend therein without discrimination because of race, color or national origin in accordance with Section 313 of the Education Law. Each nonpublic school with a religious affiliation may certify to the Commissioner its intention to be considered a religious or denominational educational insti-

tution within the meaning of this section. This certification is described elsewhere in these Guidelines;

3. Keeping an accurate record of the attendance of minor children attending such school. Such record shall be in such form as prescribed by the Commissioner and described elsewhere in these Guidelines;
4. Providing equivalent instruction for all children in the first eight grades in arithmetic, reading, spelling, writing, English language, geography, United States history, civics, hygiene, physical training, New York State history and science, and in grades nine through twelve, in English, civics and American history in accordance with Section 3204 of the Education Law;
5. Providing instruction in the special areas covered in Sections 801 through 811 of the Education Law as follows:
 - a) Physiology and hygiene, including the nature and the effects on the human system of:
 - (1) alcoholic drinks
 - (2) narcotics and habit-forming drugs (applies to courses of study beyond the first eight years)
 - b) The humane treatment of animals and birds (in the elementary grades)
 - c) Physical training for all pupils over eight years of age
 - d) Patriotism and citizenship for all pupils over eight years of age
 - e) The provisions of the Constitution of the United States in the eighth and higher grades
 - f) Highway safety and traffic regulation
 - g) Fire prevention and fire drills
 - h) Correct use and display of the flag
 - i) Observe Arbor and Wild Life Day
6. Administering the Pupil Evaluation Program tests in the third and sixth grades to all students and in the ninth grade to those students who take no Regents examinations or are not in a Regents examination program in accordance with instructions from the Bureau of Pupil Testing and Advisory Services;
7. Staffed by teachers who are certified by the Commissioner or who meet all the requirements of the schools in which they teach for the position in which the teacher serves, as certified by the Chief Administrative Officer or the school;

8. Conforming to Sections 3002 of the Education Law by having all teachers in the school take the oath of affirmation of allegiance;
9. Conducting three civil defense shelter drills during each school year.

III. DIRECTIONS FOR COMPLETING APPLICATION FOR NONPUBLIC SCHOOL APPORTIONMENT

Each nonpublic school meeting the necessary criteria and desiring to make application for aid should file a completed *Application for Nonpublic School Apportionment, Form SA-170*, with the Division of Educational Finance by November 1, 1970. The items in the application should be completed as follows:

1. *Name of Nonpublic School* — list the popular name of the school.
2. *Identification Number* — leave blank — this number is provided by the Bureau of Statistical Services of the State Education Department.
3. *Location* — include street address, city, town or village, and county of the school.
4. *Mailing Address* — list only if different from the location of the school.
5. *Name of Corporate Entity* — enter the name as defined in definitions in these Guidelines.
6. *Address* — enter mailing address of corporate entity.
7. *Date School Registered* — if the school was registered, show the date the school was last registered with the Board of Regents.
8. *Registering Name* — indicate the exact name of the school under which it is registered.
9. *Date Entity Incorporated* — if the school is incorporated by the Board of Regents or pursuant to a general or special law or if the school has designated a corporate body to receive its apportionment, enter the date of such incorporation.
10. *Incorporation Name* — indicate the exact name of the corporate entity as incorporated.
11. *Religious Affiliation* — if a denominational school, state religious affiliation. The affidavit on the Application for Nonpublic School Apportionment is to be completed by the Chief School Administrator of the school before a Notary Public.

IV. DIRECTIONS FOR COMPLETING NONPUBLIC SCHOOL APPORTIONMENT WORKSHEET

Each nonpublic school will file the *Nonpublic School Apportionment Worksheet, Form SA-171*, by January 4, 1971 in accordance with the directions which follow:

1. Complete the identification of the school and corporate entity following directions in this regard for completing the application.
2. In Entry No. 1 for each monthly attendance period, the Aggregate Attendance of non-resident students is deducted from the Aggregate Attendance to obtain the Net Aggregate Attendance. The Net Aggregate Attendance is divided by the Actual Session to obtain the Average Daily Attendance (ADA).
3. In Entry No. 2 the nonpublic school should select the month that produces the largest apportionment. The month selected must be the same for both grades one to six, and grades seven to twelve.
4. In Entry No. 3 the ADA for grades one to six and grades seven to twelve is inserted in Entries 3a and 3b, respectively. The ADA for grades one to six is multiplied by \$.15 times 180 days. The ADA for grades seven to twelve is multiplied by \$.25 times 180 days. The estimated aid is equal to the sum of Entries 3a and 3b. The aid is an estimated amount because of the 180 day session requirement. Nonpublic schools may estimate aid on a session of 180 days. Schools operating less than 180 days will have their apportionment adjusted accordingly in the following year's payment.
5. The name of the person completing the *Nonpublic School Apportionment Worksheet, Form SA-171*, is necessary when the event a question arises regarding the worksheet.
6. The *Statement of Compliance* is to be completed by the Chief Administrative Officer of the nonpublic school. The official title of the Chief Administrative Officer is necessary in order to determine his official capacity.

V. PAYMENT OF APPORTIONMENT

The apportionment will be paid to the corporate entity identified as the appropriate payee on the *Application for Nonpublic School Apportionment* as approved by the Commissioner.

In accordance with the law, one-half of the estimated total apportionment for the school year shall be paid between January 15 and March 15; the balance to be paid between April 15 and June 15.

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1. The first part of the book is devoted to a general introduction to the subject of the book. It discusses the importance of the subject and the scope of the book. It also discusses the organization of the book and the notation used throughout.

2. The second part of the book is devoted to a detailed discussion of the theory of the subject. It discusses the basic concepts and theorems of the theory and provides a rigorous proof of the main results.

3. The third part of the book is devoted to a detailed discussion of the applications of the theory. It discusses the various ways in which the theory can be applied to solve problems in the field and provides a detailed analysis of the results.

4. The fourth part of the book is devoted to a detailed discussion of the history of the subject. It discusses the development of the theory over time and the contributions of various mathematicians to the field.

APPORTIONMENT TO NONPUBLIC SCHOOLS

1970 — 71

New York State Education Department

Albany, New York 12224

Offices to Contact For Information

APPORTIONMENT

Division of Educational Finance

518: 474-2977

ATTENDANCE REPORT KEEPING

Bureau of School Social Services

518: 474-8790

ELEMENTARY INSTRUCTIONAL PROGRAMS

Bureau of Elementary School Supervision

518: 474-3894

SECONDARY INSTRUCTIONAL PROGRAMS

Bureau of Secondary School Supervision

518: 474-5923

or

474-5924

TESTING

Bureau of Pupil Testing

518: 474-5099

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EXHIBIT F



Background Information on the Nonpublic School Bill

Schools Qualifying

All nonpublic schools offering instruction in grades one through six, or seven through twelve, provided they are incorporated or have an incorporation connected with them, can be expected to qualify for funds. The following classification contains some overlapping but illustrates the varieties and kinds of institutions which might qualify.

- 1) Registered secondary schools
Non-registered secondary schools
- 2) Elementary schools chartered by the Regents
Elementary schools chartered by the Secretary of State
Other non-chartered schools
- 3) Orphan schools and schools for the handicapped

Nonpublic School Count

Elementary Schools	-	1,565
Registered Secondary Schools	-	335
Non-registered Secondary Schools	-	<u>138</u>
Total		2,038

What They Do

- 1) PEP testing
- 2) Regents examinations for those schools offering a Regents diploma, plus equivalent examinations for such areas in which Regents exams are not offered.
- 3) Periodic examinations for the evaluation of the progress of students.
- 4) Transfer records certifying grade record
- 5) Health records for transfers
- 6) Basic Educational Data System

Every nonpublic school known to the Education Department is required each fall to file a statis-

tical report entitled "Basic Educational Data System --Report of Nonpublic Schools" (copy attached). This report includes various kinds of information including:

- a) Counts of full and part-time professional staff in four categories (principal, supervisors and department heads, classroom teachers, other instructional staff);
- b) Pupil enrollment by grade and within ethnic categories;
- c) Times of daily operation by grade;
- d) Number and distribution of graduates in the previous June (secondary schools);
- e) Number of dropouts;
- f) Age of main building and major additions;
- g) Number and types of instructional rooms;
- h) Curricula offered;
- i) Incidence of special instructional procedures such as programmed instruction, simulation or gaining, multimedia instruction, etc.;
- j) Participation in specially funded projects such as those under ESEA Title I.

7) Data from Registered Nonpublic Secondary Schools

Every registered nonpublic secondary school is required to file each fall with the Bureau of Secondary School Supervision a form entitled "Secondary School Report" (copy attached) which includes the following additional kinds of data:

- a) Number of days in session and school calendar information
- b) Number of graduates qualified for Regents diplomas (previous June) and distribution of graduates by major three-year sequence;
- c) Class size and average daily pupil load data;
- d) Names, titles and salaries of administrative and supervisory personnel;

These reports included "Basic Information on the
Report of Research Schools" (see attached). This
report included various kinds of information including

1) Names of full and part-time educational staff
in each category (Principal, Assistant Principal, and
Department Head, Classroom Teacher, etc.) (see
attached sheet)

2) Full enrollment by grade and within grade
(see attached)

3) Types of daily operations by grade

4) Number and distribution of students in the
school (see attached sheet)

5) Number of students

6) List of main building and major buildings

7) Number and type of instructional rooms

8) Number of students

9) Information on special instructional programs and
on personnel (teachers, librarians, etc.)
utilized in instruction

10) Information on specially trained personnel and
their roles (see attached)

11) Data on transportation facilities (see attached)

12) Data on physical facilities (see attached)

13) Data on health and safety (see attached)

14) Data on other facilities (see attached)

15) Number of days in week and school calendar and
duration

16) Number of students enrolled in each grade
(see attached sheet) and distribution of students by
major discipline (see attached)

17) Data on the use of instructional materials

18) Data on the use of instructional materials

19) Data on the use of instructional materials

- e) Counts of ancillary staff such as librarians, guidance counselors, psychologists, nurses, etc.;
- f) Counts of professional staff qualified and not qualified for State certification;
- g) Counts of nonprofessional staff;
- h) Tuition charges;
- i) Subject and unit requirements for graduation;
- j) Standardized tests employed;
- k) Types of audio-visual equipment.

8. Health service records

9. Examinations for students not qualifying for a Regents diploma and filed for one year for inspection

10. Attendance records

11. A future development should be more comprehensive expenditure information and inspectorial information on nonpublic schools. The present funding for the performance of such services is not adequate to cover this area.

12. A future requirement will be to collect personnel characteristics for this system.

April 16, 1970

- 1) Council of professional staff and an advisory committee on professional matters, etc.
- 2) Council of professional staff elected and one qualified for State certification.
- 3) Council of nonprofessional staff.
- 4) Faculty changes.
- 5) The set and type requirements for graduation.
- 6) Recommended term schedule.
- 7) Types of audio-visual equipment.

Health Service Records

1. Examinations for students not qualifying for a degree and listed for one year for immediate admission.
2. Attendance records.
3. A future development should be some management and financial information and statistical information on the present. The present finding for the year of 1950 at such structure is not adequate to cover the year.
4. A future development will be to collect personnel data and statistics for the year.

April 20, 1950

BASIC EDUCATIONAL DATA SYSTEM REPORT OF NONPUBLIC SCHOOLS FALL 1969

Read Directions Carefully Before Completing This Form

Please Correct Above Information, If Necessary

**The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Information Center on Education
Albany, New York 12224**

BASIC EDUCATIONAL DATA SYSTEM
REPORT OF NONPUBLIC SCHOOLS
FALL 1989

Read Directions Carefully Before Completing This Form

COPY BOUND CLOSE TO EDGE

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PROFESSIONAL STAFF IN THIS SCHOOL				
TITLE	FULL-TIME		PART-TIME	
	Elementary	Secondary	Elementary	Secondary
The Principal				
Supervisors and Department Heads				
Classroom Teachers				
Other Instructional Staff				

Grade	Total	American Indian	Negro	Oriental	Spanish Surnamed American	Other
Prekindergarten						
Kindergarten (½ day)						
Kindergarten (full day)						
First						
Second						
Third						
Fourth						
Fifth						
Sixth						
Ungraded Pupils — Handicapped — Elementary						
Seventh						
Eighth						
Ninth						
Tenth						
Eleventh						
Twelfth						
Ungraded Pupils — Handicapped — Secondary						
Post Graduate						

[illegible]

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8.

IF THIS SCHOOL HAD A TWELFTH GRADE LAST YEAR INDICATE
BELOW THE DISTRIBUTION OF THE JUNE 1969 GRADUATES

Total Graduates	Number to Post Secondary In New York State			Number to Post Secondary Outside New York State			Number to Employment	Number to Military Service	Other
	4-Year College	2-Year College	Other Post Secondary	4-Year College	2-Year College	Other Post Secondary			

9. Total 9th Grade Enrollment in October 1965, if any:.....

10. Number of dropouts between July 1, 1968 and June 30, 1969:.....

11. Enter the school year (e.g., 1966-67) in which students were first enrolled in this school building:

12. Enter the school year in which additions to this school, if any, were opened.

Include only the two most recent additions. Do not include additions opened before the 1954-55 school year.
For the purpose of this question, additions do not include 1) temporary structures, such as mobile classrooms,
or 2) structures which do not increase the student capacity of the school, such as a cafeteria:

a.

b.

13.

FACILITIES - (INDICATE NUMBER OF ROOMS IN EACH CATEGORY)

Regular Classrooms		Agriculture Rooms		Cafeteria-Auditorium	
Kindergarten Rooms		Mechanical Drawing Rooms		Gymnasium-Auditorium	
Science Classrooms		Shop (Industrial Art) Rooms		Gymnasium - Cafeteria	
Science Laboratory Rms.		Shop(Vocational)Rooms		Gymnasium - Cafetorium	
Combination Science Classroom-Laboratories		Music Rooms		Gymnasiums	
Language Laboratory Rooms		Special Classrooms for Exceptional Children		Swimming Pools	
Home Economics Rms.		Other Special Classrooms		Total Teaching Stations for Physical Education	
Secretarial Practice Rms.		School Library Areas		Audio-Visual Rooms	
Office Practice Rooms		Study Halls		Multi-Purpose Rooms	
Typing Rooms		Auditoriums		Miscellaneous Instructional Areas	
Art Rooms		Cafeteria or Lunchroom			

EXHIBIT G

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John John

Date: February 22, 1972

RECEIVED

From: Thomas D. Sheldon

Subject: Mandated Services

FEB 22 1972

OFFICE OF THE
COUNSEL

As per our conversation this morning, I am attaching
some material which was submitted to the Regents on
different occasions.

Thomas D. Sheldon

TDS:hw
Att.

Exhibit C

COPY BOUND CLOSE IN CENTER

Chairman Rubin has requested an analysis of the relationship of the costs of nonpublic schools mandated services to the amounts actually received by these schools under the provisions of Chapter 138 of the Laws of 1970. Earlier this year the State Education Department commissioned three studies to provide us with some basis for such estimates. The comments below are necessarily limited to some implications of the reports furnished us under those auspices.

Before beginning, it is important to point out that Chapter 138 does not define "mandated services" but that it provides for "expenses of services for examination and inspection in connection with administration, grading and the compiling and reporting of the results of tests and examinations, maintenance of records of pupil enrollment and reporting thereon, maintenance of pupil health records, recording of personnel qualifications and characteristics and the preparation and submission to the State of various other reports as provided for or required by law or regulation."

While we commonly refer to the Chapter in terms of mandated services, the above implies that the schools are being reimbursed for examinations and testing regardless of whether or not such examinations and tests are precisely stated requirements of the Regents and the State Education Department. Under such an interpretation, as might be expected, the cost data from different schools vary widely, particularly in terms of the different allocations provided to classroom testing. The comments and examples provided below, therefore, should not be construed as indicating that schools are receiving funds contrary to the law. As a matter of fact, reimbursement is provided on the basis of a formula which is in itself independent of such costs; a formula apparently based on an estimate of what such costs might have been at the time of enactment of the law.

The studies referred to above were conducted in the late Winter and Spring of 1971. Three "Modes" were employed. They included estimates of all costs associated with the services listed in Chapter 138 of the Laws of 1970. A limited number of these studies are available in our office for reference and copies can be reproduced if desired. Modes I and III of these studies differentiate these costs associated with classroom testing from costs of State Education Department stipulated tests. Under such circumstances it is possible to make a recomputation as to the estimated amount spent in each instance for services which are specifically included in law or regulation.

Mode II of the study was based on a simple estimation of the amount of time spent by various professional and nonprofessional staff members in general areas, such as examinations and testing, and it is impossible to separate out the costs of classroom testing for non-specifically mandated phases. It is, however, interesting to note a considerable disparity in per pupil costs, indicative of the difficulty in making these estimates. Per pupil costs for services listed in Chapter 138 were estimated from \$231.93 to \$595.94 in four high schools and from \$77.56 to \$474.12 in four elementary schools.

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Following are two examples, one each from Mode I and from Mode III of the study which illustrate the effect of inclusion or non-inclusion of costs associated with ordinary classroom testing:

Example I

Mode I - From study of costs estimated for Catholic Central High School in Lansingburgh, Rensselaer County.
Costs were reported as follows:

I. 1. Teacher Examinations	
2. Entrance Examinations	\$64,752
3. New York State Regents Scholarship Examinations	510
4. January and June Regents Examinations	190
5. SRA Tests	2,050
6. Otis I.Q. Test	316
7. Kuder Preference Tests	215
8. Diocesan Examinations	400
	420
Total	\$68,853
II. Attendance Costs	
III. Pupil Health Records	\$14,416
IV. Basic Educational Data System	329
V. Secondary School Report	30
	405
Grand Total	\$84,033

Of the above testing and examination services, only the Regents Scholarship and January and June Regents Examinations might be regarded as specifically mandated. Inclusion of such costs only would reduce the examination figure by \$66,629.

The Mode I study for Catholic Central High School also included estimates of costs of services or benefits "in kind" and for indirect costs, such as operation of plant. These costs were based on the foregoing listed services in the ratio such services bore to total school services. Using this same rationale, and taking into account the above exclusion of non-specifically mandated examination costs, the "in kind and benefit" figure would be reduced from \$7310 to \$1462 and the "direct costs" from \$28,962 to \$5792.

SUMMARY

	Original Study Law, Ch. 138	Estimate Less Cost "School Testing"
Direct Costs	\$84,033	\$17,420
Ind and Benefit	7,310	1,462
Indirect Costs.	28,962	5,792
Total	\$120,305	24,674

The apportionment to Catholic Central High School, consistent with Chapter 138, is estimated at \$77,878.

Example 2

Mode III - North Shore Hebrew Academy, Great Neck (Enrollment 200 pupils)

Dr. Miller's study involved asking staff members to estimate the amount of time spent for the various listed services. He then calculated the costs of this time commitment. It is possible in this Mode to extract the time and costs which were associated with classroom testing. This particular school report included 234 "teacher days" at a cost of \$7716 for "teacher time on school tests."

SUMMARY

	Original Study Law, Ch. 138	Estimate Less Cost "School Testing"
Total Administrative Costs	\$ 605	\$ 605
Total Teacher Time for Specifically Mandated Services	1,171	1,171
Total Teacher Time on School Tests	6,716	--
Total	\$8,492	\$1,776
Cost Per Pupil	\$ 42.46	\$ 8.88

The school will be eligible under Chapter 138 for payment of approximately \$27 per pupil (\$5400).

The entire study, from which the above examples were chosen concluded that, including costs of classroom and school testing as appears consistent with Chapter 138 of the Laws of 1970 as written, the nonpublic school incurred costs for all listed services are estimated to be equal to or to exceed the reimbursement provided in the Chapter.

A computation which excludes school or classroom testing not specifically stipulated in law or regulations, will give a somewhat different picture. If the examples cited above are generally typical of nonpublic school costs in New York State, the exclusion of these non-stipulated testing costs reduces total "mandated costs" by about 80%, and indicates an expenditure to reimbursement ratio under such circumstances of approximately 1:3.

Commissioner Nyquist has directed further and more precise studies in the entire area of nonpublic school costs and State-Federal support for same so that the Regents and staff will have a firm basis for their further deliberations in these areas.

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C. Regionalism

One of the major topics discussed at the various regional meetings noted in Item I. D. has concerned several forms of regional organization. Pertinent subtopics have included ROCES services, as well as ROCES groupings to provide educational and management services in particular regions of the State. Additionally, questions have been raised as to the desirability of a decentralization of services of the State Education Department, such as has been discussed by Senator Laverne in several of his public presentations. These same subjects have aroused considerable interest among city, district and village superintendents and regional planning groups at their various meetings.

A revised and rewritten Task Force Report on the subject of Regionalism will also be forwarded to the Regents in the late mailing. It is hoped that the ESC Regents Committee will be able to devote a considerable portion of its session to this important matter.

D. Chapter 133 of the Laws of 1970

Earlier this year we furnished the ESC Regents Committee a brief summary and some comments with respect to costs associated with implementing the provisions of this particular Chapter. In essence it was pointed out that the Law itself does not confine reimbursement to schools to expenditures incurred as a result of State "Mandated Services." Unquestionably the use of this term has led to the assumption that there is such a direct relationship.

The previous paper prepared by the ESC Deputy Commissioner pointed out that if costs associated with normal daily or regular classroom testing were removed from consideration, it would be virtually impossible to reconcile reimbursement in the amounts the particular schools were entitled by law to receive with the costs of services directly mandated by the State. At that time we were requested to make a further study of this matter and at one point considered sending a questionnaire to all the schools involved.

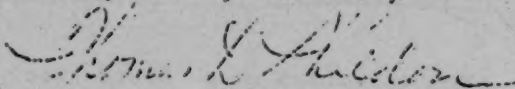
In preparing for such a study we perused materials which had been prepared earlier and are of the opinion that any further questionnaires or inquiries would simply substantiate what we already know. With that in mind another approach has been taken, i.e., we are reporting to you the estimated costs per pupil which are associated with particular mandated services as conducted in the public schools and are making the assumption that this same approximate expenditure rate would be applicable in the nonpublic sector:

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The following report prepared by Mr. Taber utilizes such a basic rationale (Attachment B). Although the original study assumed a lower cost to be associated with nonpublic school testing due to generally lower salaries, we have updated cost data to reflect an assumed equivalent salary structure in order to be entirely fair.

Costs associated with certain other mandated services such as those pertinent to attendance, health records, BEDS, and the secondary school report, have been taken from actual figures submitted by two schools participating in the sample study conducted this past Spring.

Respectfully submitted,



Thomas D. Sheldon

10/12/71

Attachments A - B

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TO: Dr. Shelton

October 13, 1971

FROM: Victor Taber

SUBJECT: Nonpublic School Costs for State Mandated Tests

Attached are the details of my estimates of local school building personnel costs for administering the Pupil Evaluation Program, the Regents Scholarship and College Qualification Testing Program, and the Regents Examination Program. You can see the items or activities included in the cost estimates and the assumptions involved, and can alter them where they are out-of-line or not warranted. In most instances the estimates are generous and may reflect what should be rather than what is.

A summary of the personnel costs based on my estimates and assumptions is as follows:

Program	Personnel Costs	
	Nonpublic Schools	Public Schools
PEP	\$500,000	\$2,260,000
RSCQT	150,000	750,000
Regents	<u>800,000</u>	<u>4,175,000</u>
Total	<u>\$1,450,000</u>	<u>\$7,185,000</u>

To the above examination and testing expenses we add the costs of mandated services for attendance, pupil health records, ZEDS and Secondary School Report. This addition results in a total of \$8,176,720 or \$7,102,640 depending on whether Catholic Central or St. Thomas cost data are used. This sum is probably a reasonably generous estimate of reimbursement for such mandates as are required of nonpublic schools.

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Local Costs for Administering Pupil Evaluation Program (PEP)

1. Type of Costs

A. Central Office Staff (Principal)

- (1) Logistical - Obtaining, distributing, collecting, inventorying and storing materials
- (2) Reporting - preparing summary forms
- (3) Interpreting - analyzing results

B. Teaching Staff

- (1) Administering —
- (2) Scoring & Recording
- (3) Interpreting

2. Time Basis of Costs

A. Central Staff - 8 minutes per pupil tested

(Assumes average of 6 to 8 classes of 25 to 30 pupils with average of 200 pupils per school)

(1) Logistical	10 hrs.
(2) Reporting	5 hrs.
(3) Interpreting	<u>10 hrs.</u>
Total	25 hrs. or 1500 minutes per school

Therefore average time is about 8 minutes per pupil

B. Teaching Staff - 20 minutes per pupil tested

(1) Administration	2 hrs.
(2) Scoring & Recording	3 hrs.
(3) Interpreting	<u>3 hrs.</u>

Total 8 hrs. or 480 minutes per teacher

Therefore if 25 pupils per class, teaching staff time would average 20 minutes per pupil.

3. Summary of Time Bases

A. Central Staff (Principal)	8 minutes per pupil tested
B. Teaching Staff	<u>20 minutes per pupil tested</u>
Total	28 minutes per pupil tested

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4. Projected Cost Estimate

<u>Grade</u>	<u>Pupils Tested and Exempted</u>	
	<u>Nonpublic</u>	<u>Public</u>
3	65,000	258,000
6	66,000	245,000
9	<u>32,000</u>	<u>232,000</u>
Total	163,000	735,000

Assuming a median annual salary of \$10,000, the per pupil cost for PEP would be \$3.08. (This is computed on the basis of 200 days per year at 7½ hours per day = 1500 hours per year at \$6.66 per hour or \$.11 per minute times 28 minutes per pupil tested.) Therefore, the total nonpublic school personnel costs would be about \$500,000 (163,000 pupils times \$3.08) and the public school costs would be about \$2,260,000 (735,000 pupils times \$3.08).

VAT
October 13, 1971

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Form 102 Administering Regents Scholarship
and College Qualification Test (RSCQT)

1. Type of Costs

- A. Supervision & Administration (School Building Central Staff)
- B. Proctoring

2. Time Basis of Costs

- A. Supervision & Administration - 15 minutes per candidate

October 1969 - 1200 schools and 180,000 candidates
(average 150 candidates per school)

(1) Orienting Students	3 hrs.
(2) Checking Student Applications	15 hrs.
(3) Ordering & Checking Materials	2 hrs.
(4) Distributing & Collecting Materials	4 hrs.
(5) Reporting and Returning Materials	4 hrs.
(6) Planning and Supervising	10 hrs.
Total	38 hrs.

15 minutes per candidate (or examination)
(2280 minutes divided by 150 candidates)

- B. Proctoring - 30 minutes per candidate
(2 proctors for 30 candidates for 7½ hrs)

3. Summary of Time Basis

A. Supervision & Administration	15 minutes per candidate
B. Proctoring	30 minutes per candidate
Total Time	45 minutes per candidate

4. Projected Cost Estimates

- A. Assuming a school median annual salary of \$10,000, the per candidate cost for the RSCQT would be about \$5.00. (This is computed on the basis of 200 days per year at 7½ hours per day = 1500 hours per year at \$6.66 per hour, or \$.11 per minute times 45 minutes per candidate.)
- B. Assume 300 nonpublic schools give RSCQT to an average of 100 pupils for a total of 30,000 candidates
- C. Assume 900 public schools give RSCQT to an average of 166 pupils for a total of 150,000 candidates
- D. The total nonpublic school personnel costs therefore would be about \$150,000 (30,000 candidates times \$5.00) and the total public school costs would be about \$750,000 (150,000 candidates times \$5.00).

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Local Costs for Using Regents Examinations

1. Cost Categories

- A. Supervision and Administrative (School Building Central Staff)
- B. Proctoring (administering examinations to pupils)
- C. Marking and Reporting (Scoring papers and reporting marks to office and pupils)

2. Time Basis for Costs

0:

A. Supervision and Administrative - 4 minutes per examination

- (1) The average school statewide administers 880 examinations per year (January & June 1970 - 1466 schools and 1,291,121 examinations written).
- (2) The average public school administers about 930 and the average nonpublic school administers about 700 per year.
- (3) The average supervisory and administrative time for a school to administer 700-900 examinations per year would be about 4 minutes per examination estimated as follows:

(a) Obtaining Materials	10 hours
(b) Distributing materials to teachers	12 hours
(c) Receiving, reporting, shipping, storing	16 hours
(d) Organizing, scheduling, supervising	<u>12 hours</u>

Total Annual Central Office Time 50 hours

Average Annual Time per examination 4 minutes
(3000 minutes divided by 800 examinations and rounded)

B. Proctoring - 16 minutes per examination

30 examinations in one room with two teachers at 4 hrs. per teacher = 8 hrs. 480 minutes (very generous)
divided by 30 examinations = 16 minutes per examination

C. Marking & Reporting - 15 minutes per examination

15 minutes per examination paper to score, double check, and record marks (generous as many examinations are mostly or totally objective)

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Summary of Time Bases

1. Supervision & Administration	4 minutes per exam
2. Proctoring	16 " " "
3. Marking & Reporting	15 " " "
Total	35 minutes per exam

Projected Cost Estimates

Assuming a median annual salary of \$10,000 per year the personnel costs per examination would be \$3.85. (This is computed on the basis of 200 days at 7½ hours per day = 1500 hours per year at \$6.66 per hour or \$.11 per minute times 35 minutes per examination.)

Nonpublic schools administered roughly 16% of the 1,291,121 examinations written in January and June 1970, or 206,600 examinations, and public schools administered 84%, or 1,084,500.

At \$3.85 per examination, total nonpublic school personnel costs would be about \$800,000 and public school costs about \$4,175,000.

October 13, 1971

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Education of Handicapped Children		Yes	No
Elementary School	Elementary School	<input type="checkbox"/>	<input type="checkbox"/>
	College Preparatory	<input type="checkbox"/>	<input type="checkbox"/>
	Business Vocational	<input type="checkbox"/>	<input type="checkbox"/>
	Vocational (other than Business)	<input type="checkbox"/>	<input type="checkbox"/>
	General	<input type="checkbox"/>	<input type="checkbox"/>
	Other	<input type="checkbox"/>	<input type="checkbox"/>
Graded or Continuous Progress	Elementary Level	<input type="checkbox"/>	<input type="checkbox"/>
	Junior High Level	<input type="checkbox"/>	<input type="checkbox"/>
	Senior High Level	<input type="checkbox"/>	<input type="checkbox"/>
Instructional Communications	Programmed Instruction	<input type="checkbox"/>	<input type="checkbox"/>
	Computer Assisted Instruction	<input type="checkbox"/>	<input type="checkbox"/>
	Individually Prescribed Instruction	<input type="checkbox"/>	<input type="checkbox"/>
	Other Types of Independent Learning	<input type="checkbox"/>	<input type="checkbox"/>
	Simulation or Gaming	<input type="checkbox"/>	<input type="checkbox"/>
	Open Circuit Television	<input type="checkbox"/>	<input type="checkbox"/>
	Closed Circuit Television	<input type="checkbox"/>	<input type="checkbox"/>
	Video Tape	<input type="checkbox"/>	<input type="checkbox"/>
	Multimedia Instruction	<input type="checkbox"/>	<input type="checkbox"/>
Learning Modules Utilizing Various Media	Learning Modules Utilizing Various Media	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
Facilities	Centralized School Library	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
Programs	Performing Arts Program	<input type="checkbox"/>	<input type="checkbox"/>
	Program for Implementing Integration	<input type="checkbox"/>	<input type="checkbox"/>
	Intercultural Relations Program	<input type="checkbox"/>	<input type="checkbox"/>
	Flexible or Modular Scheduling	<input type="checkbox"/>	<input type="checkbox"/>
	Summer School:		
	a. Elementary Level	<input type="checkbox"/>	<input type="checkbox"/>
	b. Junior High Level	<input type="checkbox"/>	<input type="checkbox"/>
c. Senior High Level	<input type="checkbox"/>	<input type="checkbox"/>	

has been indicated above that this school
 a summer school program, enter the
 approximate summer school enrollment for
 summer 1969 in the appropriate space(s)

a. Elementary (K-6)

b. Secondary (7-12)

Education of Handicapped Children		Yes	No	
Special Educational Programs For:	Mentally Handicapped	<input type="checkbox"/>	<input type="checkbox"/>	
	Cerebral Palsy	<input type="checkbox"/>	<input type="checkbox"/>	
	Blind	<input type="checkbox"/>	<input type="checkbox"/>	
	Partially Sighted	<input type="checkbox"/>	<input type="checkbox"/>	
	Brain Injured	<input type="checkbox"/>	<input type="checkbox"/>	
	Emotionally Disturbed	<input type="checkbox"/>	<input type="checkbox"/>	
	Deaf	<input type="checkbox"/>	<input type="checkbox"/>	
	Hard of Hearing	<input type="checkbox"/>	<input type="checkbox"/>	
	Physically Limited (or hospital case)	<input type="checkbox"/>	<input type="checkbox"/>	
	Speech Handicapped	<input type="checkbox"/>	<input type="checkbox"/>	
	Other	<input type="checkbox"/>	<input type="checkbox"/>	
	17. Special Services Facilities			
	Separate Facilities Provided For:	Attendance Service	<input type="checkbox"/>	<input type="checkbox"/>
Psychological Service		<input type="checkbox"/>	<input type="checkbox"/>	
Guidance		<input type="checkbox"/>	<input type="checkbox"/>	
Social Work Service		<input type="checkbox"/>	<input type="checkbox"/>	
Health Service		<input type="checkbox"/>	<input type="checkbox"/>	
Corrective Reading		<input type="checkbox"/>	<input type="checkbox"/>	
Corrective Speech		<input type="checkbox"/>	<input type="checkbox"/>	
18. Participation in Specially Funded Projects				
Indicate the Source of Funds for Specially Funded Projects In Which Your School Participates	ESEA Title I	<input type="checkbox"/>	<input type="checkbox"/>	
	ESEA Title II	<input type="checkbox"/>	<input type="checkbox"/>	
	ESEA Title III	<input type="checkbox"/>	<input type="checkbox"/>	
	Other Federal	<input type="checkbox"/>	<input type="checkbox"/>	
	State	<input type="checkbox"/>	<input type="checkbox"/>	
	Foundation	<input type="checkbox"/>	<input type="checkbox"/>	
Other	<input type="checkbox"/>	<input type="checkbox"/>		

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SECONDARY SCHOOL REPORT

1969-70

Prepare three copies of this report. File one copy with the Bureau of Secondary School Supervision by October 15. Place a duplicate copy in school file. Denominational schools may send the third copy to diocesan superintendent or other authority.

School name Address ZIP Code

Denomination Order or congregation

Principal Assistant principal

Directress of studies Address

Diocesan superintendent Address

Underline type: Boarding, Day School, Boys, Girls, Coeducational

Does this school have a certificate of registration issued by the Board of Regents? (Check) Yes..... No.....

What secondary school grade is stated on the certificate (e.g., junior high school, four-year high school, six-year high school, etc.)? Date of latest registration.....

I. Enrollments and School Organization

1. Plan of organization (8-4, 6-6, 6-3-3, etc.).....

2. Enrollment by grades as of October 1

K	7
1	8
2	9
3	10
4	11
5	12
6	Special
Special	P.G.

Total (K-6) Total (7-P.G.).....

3. Total number of graduates in 1969.....

(a) Number qualified for Regents diplomas.....

(b) Number with 3 year Regents sequence in:

Foreign Lang. Homemaking.....

Mathematics Science.....

Business Education..... Music.....

Industrial Arts Art.....

(c) Number qualified for local diplomas only.....

(d) Number entered 4 year degree granting institutions.....

in New York State.....

outside New York State.....

(e) Number entered 2 year community colleges, junior colleges, or technical institutes.....

(f) Number entered other post-high school educational institutions.....

(g) Number of dropouts between July 1, 1968 and June 30, 1969 inclusive.....

4. School calendar

Number of days school will be in session.....

Date begins Date ends

School year

Thanksgiving recess

Christmas vacation

Spring vacation

Dates of other school closings

List:

.....

.....

.....

5. Daily session

(a) School day begins..... ends.....

If school operates overlapping sessions or double sessions, fill in the following:

Session 1 begins..... ends.....

Session 2 begins..... ends.....

Session 3 begins..... ends.....

(b) How many periods in the daily session (exclusive of lunch) are available for instruction?.....
for student activities?.....

(c) Length of:

class period

lunch period

activity period

(d) Length of pupils' school day (net).....

The Commissioner's recommendation is a minimum secondary school day of 5 1/2 hours exclusive of the lunch period.

(e) Is English the language of instruction?..... If answer is "no," what language is used?.....

For how many hours a day?.....

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(e) Number of women physical education teachers by average daily pupil load

under 100.....	126-150.....	176-200.....
101-125.....	151-175.....	over 200.....

(c) Number of pupils enrolled last summer:

resident	_____
nonresident	_____

8. Credit given for instruction outside of school
Yes ☐ No ☐
If yes, indicate the area for which credit is given
Applied music ☐ Military reserves ☐ Religious edu-
cation ☐ Other _____

(Explain)

1. Supervisory and administrative staff. Persons on the staff of this school who provide administration and supervision on full-time or part-time basis. Count as supervision only the time spent in supervising and improving classroom instruction, curricular activities and pupil personnel services.

[illegible]

School psychologists..... Other.....

What is tuition charge for day pupils?_____ for
boarding pupils?_____

III. Secondary School Program

(e) Indicate the courses offered in grades 7, 8, and 9. Next to each, indicate the number of weeks and number of periods a week. Write R or E to indicate whether the course is required or elective.

[illegible]

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V. Building and Equipment

1. Building

(a) Date of construction.....

(b) Date(s) of additions:.....

(c) Number of rooms used for:

Use	No.	Use	No.
Regular classrooms ..	_____	Science laboratories ..	_____
Agriculture	_____	Combination science	_____
Art	_____	classroom-	_____
Homemaking	_____	laboratories	_____
Mechanical drawing..	_____	Language labora-	_____
Music	_____	tories	_____
Shops	_____	Library	_____
Office practice	_____	Study hall	_____
Secretarial practice ..	_____	Gymnasium	_____
Typing	_____	Combination gym-	_____
Science rooms	_____	nasium-auditorium..	_____
		Swimming pool	_____

Total rooms used for secondary school program.. _____

(d) Total teaching stations for physical education _____

2. Library

(a) Titles No.

Added to shelf list last year.....

Removed from shelf list last year.....

Currently on shelf list.....

(b) Amount spent for library books last year....

Amount budgeted for library books this year _____

(c) Number of periodicals to which the library subscribes

(d) Does the library have the Reader's Guide?
(Check one) Yes ☐ No ☐

(e) What is the seating capacity of the library? _____

(f) How many periods a day is the library open exclusively for library use?.....

3. Audio-visual equipment for grades 7-12

Opaque projectors

Overhead projectors

Filmstrip and 2" x 2" slide projectors.....

16-mm. sound motion picture projector.....

Phonographs and record players.....

Tape recorders

Radio receivers

TV receivers

Microfilm readers.....

Other (specify)

Does the school have a central (Check) Yes _____
sound system? No _____

4. English and social studies equipment

List the equipment which is a standard part of each classroom in:

ENGLISH

SOCIAL STUDIES

_____	_____
_____	_____
_____	_____
_____	_____

5. Annexes or temporary quarters

(a) Is your school using annexes? (Check) Yes _____
No _____

(b) Address of annex No.
rooms Grades Enrollment

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

VI. Outstanding Features

List what you consider to be the outstanding features of your school program. Please attach illustrative material, if possible.

(We would appreciate your sending us a copy of your report cards and school handbook.)

This report is complete and accurate to the best of my knowledge.

1. The first thing I noticed when I stepped out of the plane was the fresh air. It felt like I had been in a bubble for the last few hours. The sun was shining brightly, and the birds were chirping. I took a deep breath and felt a sense of relief. I had finally made it to the top of the mountain.

2. The second thing I noticed was the view. It was absolutely breathtaking. The valley below me was a patchwork of green fields and small villages. The mountains in the distance were covered in snow. I felt like I was on top of the world.

3. The third thing I noticed was the silence. There was no noise, no traffic, no people. It was a complete silence. I had never experienced anything like this before. It was a peaceful silence that I had never known.

4. The fourth thing I noticed was the cold. It was a sharp, biting cold that I had never felt before. I had been told that the weather would be good, but I had not realized how cold it would be. I wrapped my coat around me and shivered.

5. The fifth thing I noticed was the beauty. The landscape was so beautiful that I had never seen anything like it before. The colors were so vibrant, and the scenery was so perfect. I had never been so close to nature before.

6. The sixth thing I noticed was the solitude. I was all alone on top of the mountain. There was no one else around. It was a strange feeling, but I liked it. I had never been so alone before.

7. The seventh thing I noticed was the peace. It was a deep, calming peace that I had never felt before. I had never been so at peace with myself before.

8. The eighth thing I noticed was the joy. I was so happy to be there. I had never felt so happy before. I had finally reached my destination, and I was so grateful for the journey.

9. The ninth thing I noticed was the love. I was so in love with the place. I had never loved a place so much before. I wanted to stay there forever.

10. The tenth thing I noticed was the life. I was so alive. I had never felt so alive before. I was so grateful for the experience.

11. The eleventh thing I noticed was the hope. I was so hopeful for the future. I had never felt so hopeful before. I was so grateful for the journey.

12. The twelfth thing I noticed was the faith. I was so faithful to the path. I had never been so faithful before. I was so grateful for the journey.

13. The thirteenth thing I noticed was the love. I was so in love with the place. I had never loved a place so much before. I wanted to stay there forever.

14. The fourteenth thing I noticed was the life. I was so alive. I had never felt so alive before. I was so grateful for the experience.

15. The fifteenth thing I noticed was the hope. I was so hopeful for the future. I had never felt so hopeful before. I was so grateful for the journey.

16. The sixteenth thing I noticed was the faith. I was so faithful to the path. I had never been so faithful before. I was so grateful for the journey.

17. The seventeenth thing I noticed was the love. I was so in love with the place. I had never loved a place so much before. I wanted to stay there forever.

18. The eighteenth thing I noticed was the life. I was so alive. I had never felt so alive before. I was so grateful for the experience.

19. The nineteenth thing I noticed was the hope. I was so hopeful for the future. I had never felt so hopeful before. I was so grateful for the journey.

20. The twentieth thing I noticed was the faith. I was so faithful to the path. I had never been so faithful before. I was so grateful for the journey.

21. The twenty-first thing I noticed was the love. I was so in love with the place. I had never loved a place so much before. I wanted to stay there forever.

22. The twenty-second thing I noticed was the life. I was so alive. I had never felt so alive before. I was so grateful for the experience.

23. The twenty-third thing I noticed was the hope. I was so hopeful for the future. I had never felt so hopeful before. I was so grateful for the journey.

24. The twenty-fourth thing I noticed was the faith. I was so faithful to the path. I had never been so faithful before. I was so grateful for the journey.

25. The twenty-fifth thing I noticed was the love. I was so in love with the place. I had never loved a place so much before. I wanted to stay there forever.

26. The twenty-sixth thing I noticed was the life. I was so alive. I had never felt so alive before. I was so grateful for the experience.

27. The twenty-seventh thing I noticed was the hope. I was so hopeful for the future. I had never felt so hopeful before. I was so grateful for the journey.

28. The twenty-eighth thing I noticed was the faith. I was so faithful to the path. I had never been so faithful before. I was so grateful for the journey.

29. The twenty-ninth thing I noticed was the love. I was so in love with the place. I had never loved a place so much before. I wanted to stay there forever.

30. The thirtieth thing I noticed was the life. I was so alive. I had never felt so alive before. I was so grateful for the experience.

31. The thirty-first thing I noticed was the hope. I was so hopeful for the future. I had never felt so hopeful before. I was so grateful for the journey.

32. The thirty-second thing I noticed was the faith. I was so faithful to the path. I had never been so faithful before. I was so grateful for the journey.

33. The thirty-third thing I noticed was the love. I was so in love with the place. I had never loved a place so much before. I wanted to stay there forever.

34. The thirty-fourth thing I noticed was the life. I was so alive. I had never felt so alive before. I was so grateful for the experience.

35. The thirty-fifth thing I noticed was the hope. I was so hopeful for the future. I had never felt so hopeful before. I was so grateful for the journey.

36. The thirty-sixth thing I noticed was the faith. I was so faithful to the path. I had never been so faithful before. I was so grateful for the journey.

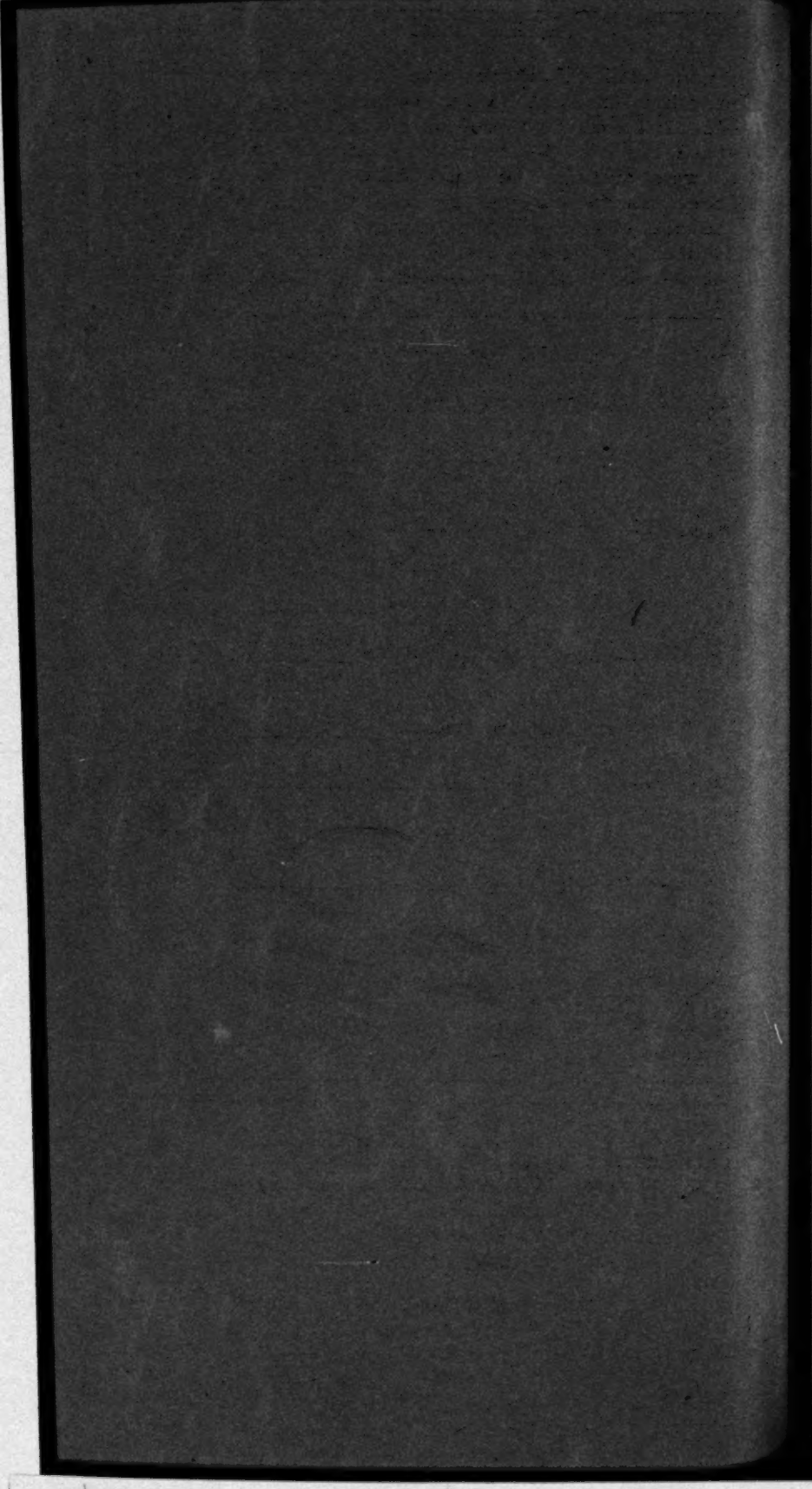
37. The thirty-seventh thing I noticed was the love. I was so in love with the place. I had never loved a place so much before. I wanted to stay there forever.

38. The thirty-eighth thing I noticed was the life. I was so alive. I had never felt so alive before. I was so grateful for the experience.

39. The thirty-ninth thing I noticed was the hope. I was so hopeful for the future. I had never felt so hopeful before. I was so grateful for the journey.

40. The fortieth thing I noticed was the faith. I was so faithful to the path. I had never been so faithful before. I was so grateful for the journey.

EXHIBIT H(1)



INSTRUCTIONS

Each nonpublic school meeting the requirements set forth in the Guidelines and desiring to make application for aid based on attendance should complete two copies of this application in pen or by typewriter. The Guidelines contain detailed instructions for completing this application. One completed copy of this application must be filed with the Office for Nonpublic School Services by October 1. One copy should be retained by the school.

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
OFFICE FOR NONPUBLIC SCHOOL SERVICES
WASHINGTON AVENUE
ALBANY, NEW YORK 12224

MANDATED SERVICES
APPLICATION FOR NONPUBLIC SCHOOL APPORTIONMENT
CHAPTER 138 OF THE LAWS OF 1970

1971-72 School Year

Form SA-170

1. Name of nonpublic school _____
2. Identification # _____
3. Location _____ N.Y. _____
No. and Street City, Town or Village Zip Code County
4. Mailing address of school _____ N.Y. _____
No. and Street Post Office Zip Code County
5. Name of corporate entity _____
6. Mailing address of entity _____ N.Y. _____
No. and Street Post Office Zip Code County
7. Date school registered _____
8. Registered name _____
9. Date entity incorporated _____
10. Incorporation name _____
11. Religious affiliation _____
12. Name of person completing this form _____
13. Telephone of person completing form _____

I, _____ the undersigned, do hereby make application to the Commissioner of Education for the apportionment provided for in Chapter 138, Laws of 1970 and further certify with reference to the nonpublic school above that:

1. It is a nonprofit school in the State, other than a public school, which provides instruction in accordance with section 3204 of the Education Law.
2. It is providing instruction for all students without regard to race, color, religion, creed or national origin. If the school is a religious or denominational educational institution, students otherwise qualified have the equal opportunity to attend therein without discrimination because of race, color or national origin in accordance with section 313 of the Education Law, and the school has filed with the Commissioner a statement in accordance with section 313 of the Education Law. (NEW APPLICATION ONLY)

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3. It is keeping an accurate record of the attendance of minor children attending such school in the form prescribed by the Commissioner in accordance with section 3211 of the Education Law.
4. It is providing equivalent instruction for all children in the first eight grades in arithmetic, reading, spelling, writing, English language, geography, United States history, civics, hygiene, physical training, New York State history and science, and in grades nine through twelve in English, civics, and American history, in accordance with section 3204 of the Education Law.
5. It is observing the provisions of sections 801-811 and is providing instruction in the special areas required by the Education Law as follows:
 - a) Patriotism and citizenship for all pupils over eight years of age;
 - b) Correct use and display of the flag;
 - c) Physical training for all pupils over eight years of age;
 - d) Physiology and hygiene, including the nature and the effects on the human system of:
 - 1) alcoholic drinks
 - 2) narcotics and habit-forming drugs (applies to courses of study beyond the first eight years);
 - e) The provisions of the Constitution of the United States in the eighth and higher grades;
 - f) Highway safety and traffic regulations;
 - g) Fire prevention and fire drills;
 - h) Observe Conservation Day and provide instruction in this area;
 - i) The humane treatment of animals and birds (in the elementary grades);
6. It is staffed by teachers who are certified by the Commissioner or who meet all the requirements of the school in which they teach for the position in which the teacher serves, as certified by the chief administrative officer of the school.
7. It is complying with section 3002 of the Education Law by having all teachers in the school take the oath of allegiance.
8. It is conducting three civil defense shelter drills during each school year.
9. It has submitted the attendance report AT6N, Secondary School Reports and Basic Educational Data System (BEDS) Report as applicable and as required in accordance with the Commissioner's Regulations and these Guidelines.
10. It has submitted the Pupil Evaluation Program Tests for third and sixth grades. Pupils who normally will be taking Regents or equivalent level courses are considered to be above the minimum competence level of the ninth-grade reading and arithmetic tests and may be excused from taking these tests.
11. It has submitted the Certificate of Religious or Denominational Institution as required by section 313 of the Education Law in those instances wherein the school has elected to request such exemption.

1. It is requested that the Commission be kept informed of any developments in the case of the above-named person.

THE UNIVERSITY OF THE STATE OF NEW YORK
OFFICE OF THE COMMISSIONER OF EDUCATION

Fire investigation and fire detection

3. Develop a research plan and provide instruction to this effect;

1. The following information was obtained from the records of the Department of the Interior, Bureau of Land Management, regarding the land owned by the United States in the State of California:

1. The above information was obtained from the files of the FBI, New York Office, and is being furnished to you for your information.

1. The following information was obtained from the records of the Department of the Interior, Bureau of Land Management, regarding the land owned by the United States in the State of Nevada:

It has indicated the small, isolated programs which are being carried out in the field of research and development in the area of the physical sciences and engineering. It has also indicated the need for a more comprehensive program of research and development in the area of the physical sciences and engineering.

It is important to note that the results of this study are based on a cross-sectional design, which limits the ability to establish causality. Future research should employ longitudinal designs to investigate the temporal relationships between the variables studied.

Affidavit of Chief Administrative Officer

(All nonpublic schools must complete Part I; nonpublic schools which are not incorporated must complete Part II.)

State of New York

County of-----) ss
-----)

-----Chief Administrative
Officer of-----, being duly sworn,
deposes and says that all statements in this application are true
to the best of his knowledge.

Signature-----
Chief Administrative Officer

Title-----

I,-----, the undersigned
do certify that the corporate entity to which apportionments shall
be made in behalf of-----school
is as follows-----

and request that the Commissioner of Education approve such corporate
entity for the purposes of Chapter 138 of the Laws of 1970.

Signature-----
Chief Administrative Officer

Title-----

Subscribed and sworn to before me this-----
day of-----19__.

Notary Public

(All requests for copies of this report should be made to the Bureau of the Census, Washington, D.C. 20543)

Page 1 of 1

1

Office of the Attorney General

Department of Justice

Office of the Attorney General
Department of Justice
Washington, D.C. 20543

Chief Administrative Officer

11/1/77

Re: [illegible]

Enclosed for the Bureau of the Census are two copies of the report.

Very truly yours,

Attorney General

Chief Administrative Officer

11/1/77

Enclosed for the Bureau of the Census are two copies of the report.

Very truly yours,

Attorney General

EXHIBIT H(2)

COPY BOUND CLOSE IN CENTER

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Complete this form in pen or by typewriter.
The completed copy of this worksheet must be
filed with the DIVISION OF EDUCATIONAL FINANCE
on or before December 15. A second copy should be
retained at the school. The Guidelines contain
detailed instructions for completing this
worksheet.

THE STATE EDUCATION DEPARTMENT
DIVISION OF EDUCATIONAL FINANCE
STATE AIDED PROGRAMS
99 WASHINGTON AVENUE
ALBANY, NEW YORK 12210

FIRST APPORTIONMENT
NONPUBLIC SCHOOL
AVERAGE DAILY ATTENDANCE WORKSHEET
1971-72 SCHOOL YEAR FORM SA-171 (6/77)

Name of nonpublic school _____

Identification # _____ (leave blank)

Filing Address _____ N.Y.
No. and Street Post Office Zip Code County

Try 1. Computation of ADA for the first three months of the 1971-72 school year.
(Carry all computations for ADA to two decimal places without rounding.)

Attendance Months	Factors	Grades		
		1-6	7-8	9-12
PERIOD I SEPTEMBER	Possible Aggregate Attendance (1)			
	Aggregate Attendance (2)			
	Aggregate Attendance of Non-residents *(3)			
	Net Aggregate Attendance (2 minus 3) (4)			
	Actual Session for Sept. **(5)			
	ADA (4 divided by 5) (6)			
PERIOD II OCTOBER	Possible Aggregate Attendance (1)			
	Aggregate Attendance (2)			
	Aggregate Attendance of Non-residents *(3)			
	Net Aggregate Attendance (2 minus 3) (4)			
	Actual Session for Oct. **(5)			
	ADA (4 divided by 5) (6)			
PERIOD III NOVEMBER	Possible Aggregate Attendance (1)			
	Aggregate Attendance (2)			
	Aggregate Attendance of Non-residents *(3)			
	Net Aggregate Attendance (2 minus 3) (4)			
	Actual Session for Nov. **(5)			
	ADA (4 divided by 5) (6)			

*Non-resident is a student who is a non-resident of New York State
Actual session is the number of days school is in session and attendance is kept

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COMPUTATION WORKSHEET - Continued

try 2. Selection of best attendance month. Nonpublic schools may select the one attendance period from September, October and November that results in the highest apportionment.

Enter the month selected _____

a. Grades 1 - 6 _____
A.D.A.

b. Grades 7 - 8 _____
A.D.A.

c. Grades 9 - 12 _____
A.D.A.

(Month selected must be the same)

ter the A.D.A. on the proper apportionment worksheet. Use SA-174 for nonpublic school d under Chapter 138. Use SA-176 for aid under Chapter 822. If the Commissioner has determined that the nonpublic school is in a depressed area the school is to complete rm SA-177. The Form SA-177 will be sent only to those schools that have been identified as being eligible pursuant to Title IV the Higher Education Act of 1965.

me of person filling out this form _____ Tel. No. (Area Code) _____

STATEMENT OF COMPLIANCE

I hereby certify that all pupils included in the attendance on this worksheet are enrolled in this nonpublic school and, that the records substantiating this data, as well as the attendance claimed will remain on file at the school for a period of fifty years.

I further certify that the information contained in this report is true and correct to the best of my knowledge.

Signature _____
Chief Administrative Officer

Title _____

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Nonpublic schools are also required to submit information with respect to pupil enrollment, pupil health records, Basic Educational Data System (BEDS) and to prepare a Secondary School Report.

Cost data as to these factors reported in 1971 by the Catholic Central High School in Lansingburg were as follows: 0:

Attendance	\$14,416.
Health Records	329.
BEDS	30.
Secondary School Report	<u>405.</u>
	\$15,180.

Catholic Central High School enrolls 1679 pupils, resulting in an average cost of \$8.58 per pupil for these purposes.

Data as to these same factors reported by St. Thomas Elementary School in Delmar in 1971 were as follows:

Attendance	\$2,300.
Health Records	100.
BEDS	10.
Secondary School Report	<u>12.</u>
	\$2,422.

This figure results in an average expenditure of \$7.21 for each of the 336 pupils enrolled.

Total nonpublic school enrollment for the school year 1970-71 was reported as 784,000. Using the above reported per pupil costs as being generally representative, State expenditures for these services would have been \$6,726,720 (using Catholic Central High School averages) or \$5,652,640 (using St. Thomas Elementary School averages).

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EXHIBIT I

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**FINANCIAL SUPPORT
NONPUBLIC SCHOOLS
NEW YORK STATE**

THE UNIVERSITY OF THE STATE OF NEW YORK

The State Education Department

Albany, New York 12224

October 1969

FINANCIAL SUPPORT

NONPUBLIC SCHOOLS

NEW YORK STATE

THE UNIVERSITY OF THE STATE OF NEW YORK
The State Education Department
Albany, New York 12224

October 1969

THE UNIVERSITY OF THE STATE OF NEW YORK

Regents of the University (with years when terms expire)

1984	Joseph W. McGovern, A.B., LL.B., L.H.D., LL.D., D.C.L., Chancellor	New York
1970	Everett J. Penny, B.C.S., D.C.S. Vice Chancellor	White Plains
1978	Alexander J. Allan, Jr., LL.D., Litt.D.	Troy
1973	Charles W. Millard, Jr., A.B., LL.D., L.H.D.	Buffalo
1972	Carl H. Pforzheimer, Jr., A.B., M.B.A., D.C.S., H.H.D. ..	Purchase
1975	Edward M. M. Warburg, B.S., L.H.D.	New York
1977	Joseph T. King, LL.B.	Queens
1974	Joseph C. Indelicato, M.D.	Brooklyn
1976	Mrs. Helen B. Power, A.B., Litt.D., L.H.D.	Rochester
1979	Francis W. McGinley, B.S., LL.B., LL.D.	Glens Falls
1980	Max J. Rubin, LL.B., L.H.D.	New York
1971	Kenneth B. Clark, A.B., M.S., Ph.D., Litt.D.	Hastings on Hudson
1982	Stephen K. Bailey, A.B., B.A., M.A., Ph.D., LL.D.	Syracuse
1983	Harold E. Newcomb, B.A.	Owego
1981	Theodore M. Black, A.B.	Sands Point

President of the University and Commissioner of Education
Ewald B. Nyquist

Deputy Commissioner of Elementary, Secondary and Continuing Education
Herbert F. Johnson

PREFACE

This report has been prepared in response to the request of Acting Commissioner of Education Ewald B. Nyquist who in July 1969 initiated a formal study of public financial support for nonpublic elementary and secondary schools. He was mindful of the expressions of financial distress being voiced by spokesmen for the nonpublic schools, and of the concern about this question, evidenced by other governmental officials.

The report is the result of considerable work by members of the Education Department, including Francis E. Griffin, Chairman, Fred Baruchin, Robert D. Stone, John P. Jehu, John J. Stiglmeier, Sherman N. Tinkelman, Norman D. Kurland, Joseph J. Caruso, Thomas J. Malesky, David D. Billmyer, Thomas H. Calvin, William B. Haessig and Homer Dearlove. Fred Baruchin was responsible for organizing much of the material into its final form.

Special acknowledgment is made to the many who supplied material appearing as appendices.

Herbert F. Johnson
Deputy Commissioner for
Elementary, Secondary and
Continuing Education

October 1969

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TABLE OF CONTENTS

	<u>Page</u>
Introduction	1
Chapter I - Statistics Regarding Nonpublic Schools in New York State	2
Chapter II - Existing Programs of Public Assistance	8
Chapter III - Financial Crisis in Nonpublic Schools	20
Chapter IV - Possible Measures of Additional Support	21
Chapter V - Questions and Issues	34
Chapter VI - Legislative Developments in Other States	36
Bibliography	43
Appendices	

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INTRODUCTION

The Constitution of the State of New York requires that:

"The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated."

To carry out this mandate, the Legislature established local school districts and developed a system of free public schools, sharing with local districts the policy determination and the financial support of such schools.

Meanwhile, nonpublic schools were established in many communities under various auspices, some by religious denominations, some under other sponsorship. For a long time such schools received no public financial aid. Indeed, as for religiously sponsored schools, a constitutional provision was adopted forbidding such aid. The original provision was amended and Article XI, Section 3 of the New York State Constitution now reads:

"Neither the State nor any subdivision thereof shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught, but the legislature may provide for the transportation of children to and from any school or institution of learning."

Under Constitutional interpretation and amendment, the Legislature has from time to time adopted legislation providing assistance to nonpublic schools and their students.

In recent years the problem of financing all education, public and nonpublic has become acute. Spokesmen for the nonpublic schools have expressed the view that they are serving the public interest and that they merit a larger measure of public financial support. They have pointed to the fact that other states have provided such assistance.

The questions thus raised have many ramifications. These are discussed in this report, in the hope that this information may be useful in reaching policy decisions of far-reaching importance for the State of New York.

CHAPTER I

STATISTICS REGARDING NONPUBLIC SCHOOLS IN NEW YORK STATE

PUBLIC AND NONPUBLIC SCHOOL ENROLLMENT TREND

Table 1 shows enrollment in public and nonpublic elementary and secondary schools for selected years from 1947-48 to 1968-69. Total elementary and secondary school enrollment increased by 87.7 percent during that period (2,275,280 in 1947-48; 4,270,395 in 1968-69), and the public schools showed a substantially larger percentage increase than did the nonpublic schools (92.1 percent public; 72.4 percent nonpublic).

As indicated in the table, the proportion of elementary and secondary school pupils attending nonpublic schools, while relatively constant from 1947-48 to 1957-58, has been decreasing slightly in the last 10 years (22.8 percent in 1957-58; 20.4 percent in 1968-69).

TABLE 1

ENROLLMENT IN PUBLIC AND NONPUBLIC SCHOOLS

GRADES K-12

NEW YORK STATE

1947-48 to 1968-69

School Year	Total	Public	Nonpublic	Nonpublic as Percent of Total
1968-69	4,270,395	3,397,678	872,717	20.4
1967-68	4,209,588	3,325,477	884,111	21.0
1962-63	3,808,168	2,960,568	847,600	22.3
1957-58	3,285,009	2,535,809	749,200	22.8
1952-53	2,705,036	2,087,370	617,666	22.8
1947-48	2,275,280	1,768,985	506,295	22.3

TABLE 2
NUMBER OF SCHOOLS AND ENROLLMENT IN NONPUBLIC SCHOOLS
BY GROUP AFFILIATION

NEW YORK STATE

FALL 1968

Group	Number of Schools	Enrollment				
		K-6	7-8	9-12	Total	% of Total
State Total	2,038	527,273	151,046	194,398	872,717	100.0%
Roman Catholic	1,415	452,154	131,548	158,462	742,164	85.0
Jewish	164	30,461	7,370	13,436	51,267	5.9
Lutheran	59	7,191	1,636	1,266	10,093	1.1
Episcopal	49	4,106	883	1,645	6,634	0.8
7th Day Adventist	37	1,329	453	535	2,317	0.3
Other Religions*	18	2,536	586	919	4,041	0.5
Total Nondenominational	296	29,496	8,570	18,135	56,201	6.4
Campus Schools	14	3,648	1,157	1,400	6,205	0.7
Other Nondenominational	282	25,848	7,413	16,735	49,996	5.7

*Includes Society of Friends, Mennonite, Greek Orthodox, Russian Orthodox, Methodist and Baptist.

NUMBER OF NONPUBLIC SCHOOLS AND ENROLLMENT BY GROUP AFFILIATION

As reported in Table 2, the total number of nonpublic elementary and secondary schools in New York State was 2,038 in the fall of 1968. It may be seen that a majority of these (69.4 percent) were Roman Catholic schools, and that a great number of the remaining schools were operated by other religious groups. It should be noted that, in 1968-69, 11 religious denominations operated elementary and secondary schools in the State, and that nondenominational schools accounted for only 14.5 percent (296 schools) of the total number in operation.

Table 2 shows that in 1968-69, 85 percent of nonpublic school pupils in New York State attended Roman Catholic schools.

Schools of other religious denominations contained an additional 8.6 percent of the enrollment (Jewish, 5.9 percent; Lutheran 1.1 percent; Episcopal, .8 percent; 7th Day Adventist, .3 percent; Other Religions, .5 percent). Nondenominational schools accounted for only 6.4 percent of the total.

Appendix A provides a more detailed view of nonpublic enrollments, showing enrollments by grade as well as in subgroups of major affiliations.

NONPUBLIC SCHOOL ENROLLMENT IN THE "BIG SIX" CITIES

In 1968-69, well over half (61.6 percent) of the pupils enrolled in nonpublic schools in New York State attended schools in the "Big Six" cities of Albany, Buffalo, New York, Rochester, Syracuse and Yonkers. Table 3 shows the distribution of enrollment among the "Big Six" cities and for the rest of the State by grade group. It may be seen that New York City alone had slightly more than half the enrollment (51.4 percent), and an additional 10.2 percent was accounted for by the other large cities (Buffalo, 4.3 percent; Rochester, 1.9 percent; Albany, 1.5 percent; Yonkers, 1.3 percent; Syracuse, 1.2 percent).

The "Big Six" cities contained a slightly higher proportion of the secondary nonpublic school enrollment as compared with the elementary school enrollment in 1968-69 (secondary, 63.3 percent; elementary, 61.2 percent). In all six cities, a fairly large percentage of the nonpublic enrollment was comprised of pupils who were not residents of the public school district in which the nonpublic schools were located. The percentage of nonresident attendees ranged from 9.0 percent in Yonkers to 16.0 percent in Buffalo.

A more detailed distribution of nonpublic school enrollment by geographic location is contained in Appendix B, which shows enrollment by grade and county in 1968-69.

TABLE 3

NONPUBLIC SCHOOL ENROLLMENT IN THE "BIG SIX" CITIES
NEW YORK STATE
1968-69

	K-8		9-12		Total Enrollment	Percent of total	Percent* Nondistrict Residents
	Enrollment	Percent of Total	Enrollment	Percent of Total			
Big Six Cities							
Albany	8,554	1.3 %	4,359	2.2 %	12,913	1.5 %	15.0 %
Buffalo	27,237	4.0	10,277	5.3	37,514	4.3	16.0
New York	344,984	51.0	103,794	52.8	448,778	51.4	11.0
Rochester	14,180	2.1	2,846	1.4	17,026	1.9	13.0
Syracuse	8,545	1.3	2,089	1.1	10,634	1.2	15.0
Yonkers	10,138	1.5	955	0.5	11,093	1.3	9.0
Total Big Six	413,638	61.2	124,320	63.3	537,958	61.6	--
Rest of State	262,673	38.8	72,086	36.7	334,759	38.4	--
TOTAL	676,311	100.0	196,406	100.0	872,717	100.0	19.0

* 1967-68 figures

INSTRUCTIONAL STAFF IN NONPUBLIC SCHOOLS

As reported in Table 4, in 1968-69 there were 43,053 professional staff members in the nonpublic schools of New York State. The great majority of these (81.1 percent) were classroom teachers. Principals accounted for 5.4 percent of the total number of personnel, while supervisors and department heads constituted 4.9 percent of the total; the remaining 8.6 percent occupied other types of professional positions. Of the total number of positions, 38,923 (90.4 percent) were full-time and the remaining 4,130 were occupied by individuals who worked only part-time.

When related to enrollment information contained in Table 1, instructional staff data yielded the following ratios: nonpublic school pupils to teachers, 25.0:1; pupils to all other professional staff members, 107.4:1; pupils to total professional staff, 20.3:1.

TABLE 4

INSTRUCTIONAL STAFF IN NONPUBLIC SCHOOLS

NEW YORK STATE

FALL 1968

Position	Full-Time	Part-Time	Total
Principals	2,141	170	2,311
Supervisors and Department Heads	1,752	370	2,122
Classroom Teachers	32,442	2,482	34,924
Other Professional Positions	2,588	1,108	3,696
TOTAL	38,923	4,130	43,053

NONPUBLIC SCHOOL SIZE

Selected enrollment size percentiles for nonpublic schools are reported in Table 5. It may be seen that the median enrollment size for nonpublic elementary schools was 296 in 1968-69, and the corresponding figure for secondary schools was 195. For both elementary and secondary schools, Roman Catholic schools tended to be larger in enrollment than other types of nonpublic schools. The median enrollment for Catholic elementary schools was 366 as compared to 142 for other nonpublic elementary schools; Catholic secondary schools had a median enrollment size of 310, while the figure for other nonpublic secondary schools was only 195.

Overall, nonpublic schools tended to be small in size. Among elementary schools, 25 percent contained 168 or fewer pupils, while 25 percent of the secondary schools had 79 or fewer pupils enrolled. Only 10 percent of the elementary schools contained 885 or more pupils; similarly, 10 percent of the nonpublic secondary schools had enrollments of 904 or more pupils.

TABLE 5
NONPUBLIC SCHOOL SIZE

NEW YORK STATE

1968-69

Selected Percentiles	Elementary Schools			Secondary Schools		
	Roman Catholic	Other	Total	Roman Catholic	Other	Total
10th	153	29	79	32	18	24
25th	248	61	168	99	59	79
50th	366	142	296	310	111	195
75th	650	235	548	630	206	469
90th	970	366	885	1,121	351	904

CHAPTER II

EXISTING PROGRAMS OF PUBLIC ASSISTANCE

Various aids are presently provided for nonpublic schools and the children who attend them. A brief description of these measures and the expenditures involved are summarized in this Chapter.

Transportation

School districts are required to provide transportation to nonpublic school children on the same basis as for their public school children. Specifically, the law states: "In providing or granting transportation for children, sufficient facilities shall be provided for all the children residing within the school district to and from the school they legally attend, who are in need of such transportation because of the remoteness of the school to the child or for the promotion of the best interest of such children."

The State reimburses the school district for 90% of approved cost of transportation of those children who reside at least $1\frac{1}{2}$ miles from the schools they attend. This aid will be reduced to district aid ratio in 1970-71.

The law also requires that a district must transport children who reside the following distances from their schools:

Elementary level	-	grades K-8	-	2-10 miles
Secondary level	-	grades 9-12	-	3-10 miles
Handicapped (from school age to 21 years of age)	-	where needed	-	up to 20 miles

Transportation Expenditures

1967-68

<u>Total</u>	<u>Public</u>	<u>Private</u>
\$157,142,119	\$134,142,119	\$23,000,000

Health Services

Except for Rochester, Buffalo, and New York, which receive local Health Department services, all districts in the State are required to provide certain health services for children in private schools to the extent such are provided for the public schools and are requested by the nonpublic schools.

Services and equipment include:

- Annual medical inspection
- Dental hygiene inspection and prophylaxis
- School nursing services, vision and hearing tests
- Examinations for employment certificates
- Examinations for participating in athletics
- Notification of parents concerning defects and follow-up
- Instruction for first aid care for school emergencies
- Scales, first aid supplies
- Vision and hearing test devices
- Health record forms

Health Services Expenditures

1967-68

<u>Total</u>	<u>Public</u>	<u>Private</u>
\$41,458,601	\$32,458,601	\$9,000,000

Loan of Textbooks

Subdivision 3 of Section 701 requires all school boards to purchase and to loan, upon individual request, textbooks to all children residing in the district who are attending grades seven through twelve in public and nonpublic schools. Textbooks are defined by the statute so as to eliminate reference books, workbooks, and certain other items.

The textbook must be non-sectarian (this eliminates denominational editions and those carrying the "imprimatur" or "nihil obstat" of a religious authority), and the textbook must be "designated for use in any public elementary or secondary school of the State or . . . approved by any school board."

The textbooks must be "loaned free" to the children, but school boards may make reasonable rules and regulations. Such rules and regulations may contain requirements for reimbursement, by the student to the school district, for damage, loss or destruction of loaned textbooks.

At present no district is required to purchase or otherwise acquire textbooks, under this section, at a total cost to the district in excess of \$10 multiplied by the total number of resident students in grades 7-12, of public schools and private schools. The schools must comply with the provisions of the Compulsory Education Law., i.e., must provide at least substantially equivalent education services and facilities (in the judgment of the school board of the district where the nonpublic school is located.)

Textbook (Secondary Schools) Expenditures

1967-68

<u>Total</u>	<u>Public</u>	<u>Private</u>
\$18,500,000	\$13,500,000	\$5,000,000

School Lunch Service

Funds from State appropriations may be used to reimburse sponsors of non-profit school lunch, special milk, or other school child feeding programs to the extent that Federal funds apportioned to the State of New York are insufficient to provide the full reimbursement to which sponsors may be entitled. School lunch reimbursement is 9 cents per Type A lunch served to children; approximately $4\frac{1}{2}$ cents represents State subsidy.

Children of a non-profit private and parochial school of high school grade or under within the definition of the Statutes of the State of New York and exempt from income tax under the Internal Revenue Code as amended, are eligible to participate.

All private and parochial schools must meet the same eligibility requirements as public schools:

- o operate the school lunch program on a non-profit basis for all children regardless of race, color, or national origin;
- o serve nutritious lunches that meet the requirements of the Type A menu pattern;
- o provide lunches free or at a reduced price to children who are determined by local school authorities to be unable to pay the full price of lunch; and,
- o submit a policy statement concerning free and reduced price meals.

School Lunch

1967-68

State Funds

<u>Total</u>	<u>Public</u>	<u>Private</u>
\$11,109,355	\$10,294,518	\$814,837

Federal Funds

<u>Total</u>	<u>Public</u>	<u>Private</u>
\$10,880,179	\$10,099,580	\$780,599

Payments for the Special Milk Program were wholly from Federal funds and were as follows:

\$7,667,230	\$1,466,601
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Attendance

Public school districts are responsible for attendance of children in school under the Compulsory Education Law. Beyond enforcing the law they strive to promote good attendance in order that every child's educational experience should be most valuable. Each district, therefore, provides attendance services to cover all children, including those attending nonpublic schools. Attendance teachers are ordinarily used for this purpose, visiting homes of children as needed. Referrals are made by the schools and attendance personnel follow up by home visits as required. Nonpublic schools generally refer only those cases they feel are most severe.

Attendance Expenditures

1967-68

<u>Total</u>	<u>Public</u>	<u>Private</u>
\$10,852,470	Not Available	Not Available

Census

The Education Law provides that a school census, which shall include all minors between birth and 18 years of age and shall particularly note any children between birth and 21 years of age who are deaf or blind or suffering from any other crippling condition and mental defects, shall be taken on August 30th of each year in each school district except the six largest cities. (Sec. 3243)

Cities generally maintain a continuous census of children enrolling in public and nonpublic schools, while some cities attempt to utilize local agencies concerned with vital statistics.

Census Expenditures

1967-68

<u>Total</u>	<u>Public</u>	<u>Private</u>
\$791,480	Not Available	Not Available

Testing

The New York State Pupil Evaluation Program (PEP) is a Statewide testing program that provides teachers, schools, and the State Education Department an annual inventory of pupil achievement. Used in the program are standardized tests of achievement based on New York State courses of study. The Readiness, Reading and Arithmetic Achievement tests are administered at the beginning of each school year to pupils in every school, public and nonpublic, in New York State in grades 1, 3, 6, and 9.

The PEP testing is supplemented by achievement tests of various kinds.

The Purpose is to Provide the

Teacher	With test results for immediate use in planning instruction at the beginning of the school year
School	With a complete summary of all scores, along with pertinent, related data for meaningful interpretation of pupil achievements
System	With summary and interpretive data for each school, and with systemwide summaries and interpretive reports
State Education Department	With an extensive data bank of test information and with Statewide summaries which will provide broad views of pupil achievements and needs

Regents Scholarship examinations are additional components of the State testing program.

1967-68

Pupil Evaluation Program

<u>Total</u>	<u>Public</u>	<u>Private</u>
\$335,000	\$268,000	\$62,000

Standardized Testing Program

\$ 94,000	\$ 76,300	\$17,700
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Regents Scholarship Program

\$250,000	\$203,000	\$47,000
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Regents Examinations

Regents examinations are end-of-course achievement examinations in grades 9-12, based on New York State courses of study. They are offered three times a year (January, June, and August) and cover 25 high school subjects. General use of Regents examinations, which are designed for pupils of average and above-average ability, is required in the public high schools of the State and made available to nonpublic schools. Each year more than 1,300,000 examination papers are written by 525,000 pupils in approved public and private high schools.

Regents examinations provide the school with a yardstick for evaluating pupil progress. They provide a supervisory instrument intended to stimulate high academic achievement and quality teaching throughout the State. Regents examinations also constitute a device for predicting success in further study, both in high school and in college.

In accordance with Section 28 (3.35) of the Regents Rules relating to apportionment, schools receiving State aid shall make general use of Regents examinations or approved equivalent examination in the senior high school grades, though it is not required that public schools must administer Regents examinations to all students.

Regents Examinations Expenditures

1967-68

<u>Total</u>	<u>Public</u>	<u>Private</u>
\$292,000	\$237,000	\$55,000

Total Testing Services to Schools

1967-68

	Regents Exams Administered	Standardized Testing Program	Pupil Eval. Prog.	Regents Scholar- ship Prog.	Total
Public	\$237,000	\$76,300	\$268,000	\$203,000	\$784,300
Nonpublic	55,000	17,700	62,000	47,000	181,700
Total	292,000	94,000	330,000	250,000	966,000

Severely Handicapped Children

State Assistance for Instruction to Severely Handicapped Children Under the Provisions of Section 4407

Section 4407 authorizes the State Education Department to contract with a nonpublic educational facility located within or without the State for instructional services for certain handicapped children when adequate public facilities are not available for such children. Thus far the State has assumed the cost of instruction up to the maximum \$2,000 per year allowed for each eligible child. The payments have been made directly to the private school with which the State has contracted after a site visit to the school to determine its eligibility to receive these funds.

(a) Eligibility of Pupils. Satisfactory evidence must be provided that:

- (1) The child for whom assistance is requested is of school age.
- (2) There is present an unusual type of handicap or combination of handicaps.
- (3) An application has been made to the public school system for instruction and that there is no adequate public school program available within the State.
- (4) Adequate medical and/or psychological examinations have been made.
- (5) Such child can be expected reasonably to benefit from instruction.

(b) Eligibility of Schools

- (1) The nonpublic school for attendance at which assistance is requested has an adequate and suitable special education program and has been registered with the Department after a site visit to the facility.
- (2) A facility located outside the State may be approved based on recommendations made by qualified public officials of the State where the school is located.

The amendment to Section 4407 as incorporated in Chapter 171, Laws of 1969, which becomes effective July 1, 1969, now provides that the school district or residence of the handicapped child for whom this service is provided must contribute to the cost of each child's tuition. The amount per child to be paid by the school district will be the difference between the district's per pupil operating expenditure, not to exceed \$760, and the operating expense aid per pupil.

The school district's share of the cost of this program will be deducted each year from the State aid otherwise payable to the district.

It is expected that approximately 4,000 handicapped children will receive the financial benefits offered under this Law for the 1968-69 school year.

Handicapped Pupils (Section 4407) Expenditures

1967-68

<u>Total</u>	<u>Public</u>	<u>Private</u>
\$8,000,000	None	\$8,000,000

Orphan Schools

Pursuant to Section 4001 of the Education Law, nonpublic schools operated by the incorporated Orphan Asylum Societies (except in New York City) receive one-half of each approved teacher's salary up to \$4000. If fewer than 10 pupils are enrolled in the class, \$400 is paid per pupil in ADA.

Orphan Asylum School (Section 4001) Expenditure

1967-68

<u>Total</u>	<u>Public</u>	<u>Private</u>
\$190,537	None	\$190,537

Home Instruction

Home instruction, where required, is available to students attending nonpublic schools. A student requiring home teaching must apply to the public school system serving the area in which he resides. His application is considered the equivalent of enrollment in the public schools for the purpose of receiving home instruction.

Home Instruction Expenditures

1967-68

<u>Public</u>	<u>Private</u>
No estimate available	No estimate available

Summer School

Summer elementary schools enroll children regardless of whether they were enrolled in public or private institutions during the regular school year. Some schools charge all their summer students the three dollar registration fee for elementary summer school. Most make no charge.

No figures are kept for the numbers of children from private schools enrolling in public summer schools. No State funding is given at all to private summer schools.

Summer School Expenditures

1967-68

Public

No estimate available

Private

No estimate available

Section 3210, subdivision 2-b Absence provides that absence from required attendance shall be permitted only for causes allowed by the general rules and practices of the public schools. Absence for religious observance and education shall be permitted under rules established by the commissioner.

Regulations of the Commissioner of Education

Section 154. (1092) Absence from School

1. Absence of a pupil from school during school hours for religious observance and education to be had outside the school building and grounds will be excused upon the request in writing signed by the parent or guardian of the pupil.
2. The courses in religious observance and education must be maintained and operated by or under the control of duly constituted religious bodies.
3. Pupils must be registered for the courses and a copy of the registration filed with the local public school authorities.
4. Reports of attendance of pupils upon such courses shall be filed with the principal or teacher at the end of each week.
5. Such absence shall be for not more than one hour each week at the close of either the morning or afternoon session or both at a time to be fixed by the local school authorities, provided that the time designated for each separate unit, the primary grades (K-3), intermediate grades (4-6), junior high school grades (7-9), and senior high school grades (10-12) shall be the same for all pupils in that unit in each separate school.
6. In the event that more than one school for religious observance and education is maintained in any district, the hours for absence in each particular public elementary or secondary school unit in such district shall be the same for all such religious schools.

No cost involved

Table 6

Expenditure for Respective Service Areas

State and Local Revenues

1967-68

<u>Item</u>	<u>Total</u>	Amount to	
		<u>Public School Pupil</u>	<u>Private School Pupil</u>
Transportation	157,142,119	134,142,119	23,000,000
Health Service	41,458,601	32,458,601	9,000,000
Textbooks (Secondary schools)	18,500,000	13,500,000	5,000,000
School Lunch	11,109,355	10,294,518	814,837
Attendance	10,852,470	N.A.	N.A.
Census	791,480	N.A.	N.A.
Testing Services to Schools	966,000	784,300	181,700
Regents Examinations	(292,000)	(237,000)	(55,000)
Standardized Testing Program	(94,000)	(76,300)	(17,700)
Pupil Evaluation Program	(330,000)	(268,000)	(62,000)
Regents Scholarship	(250,000)	(203,000)	(47,000)
Handicapped - Section 4407	8,000,000	----	8,000,000
Orphan Asylum Schools - Section 4001	190,537	----	190,537
Home Instruction	N.A.	N.A.	N.A.
Summer School	N.A.	N.A.	N.A.
<u>Federal Funds</u>			
E.S.E.A.			
Title I	89,000,000	79,800,000	9,200,000
Title II	6,327,119	4,939,119	1,388,300
Title III			
School Lunch	10,880,179	10,099,580	780,599
School Milk	9,133,831	7,667,230	1,466,601

CHAPTER III

FINANCIAL CRISIS IN NONPUBLIC SCHOOLS

Appeals for additional public assistance for nonpublic schools have been made with increasing frequency in recent years. A spokesman for the Catholic Schools appeared before the Regents at its Legislative Hearing on September 5, 1969 and made a very strong plea for such support. (Appendix C). This was followed by a more complete statement of the Catholic School position in a booklet entitled "Another Aspect of the Financial Crisis in Education." (Appendix D).

No formal appeal has been received from the schools sponsored by other religious denominations. There is every reason to believe, however, that they too are finding their resources strained. An indication is an interview with a spokesman for the Hebrew Schools, quoted in the Albany Times Union of October 4, 1969. (Appendix E).

Even the "independent schools," which have been thought to be in the strongest financial position, are encountering difficulties. Last year the Peekskill Military Academy, one of the best known institutions of its kind in the country, was forced to close its doors because it had exhausted its resources. The Collegiate School of New York City, a long established and well known preparatory school, is in financial difficulty, according to its Head Master, as reported in the New York Times of September 21, 1969. (Appendix F).

Private schools are not required to follow uniform accounting practices or to make public reports of their financial affairs or the resources available to them. It is not possible, therefore, to ascertain the degree of need which exists in each school.

If any additional aid should be provided for nonpublic schools, it would presumably have to be made available to them all, on the basis of equity of treatment and because all are undoubtedly in need of assistance. As described in Chapter II, every present financial aid measure applies to all nonpublic schools. Such aid would, of course, also apply to nonpublic schools which would hereafter be established.

If any proposal for variable aid adjusted to each school's financial resources were to be considered, it would obviously be necessary to secure detailed information regarding each school's financial condition.

POSSIBLE MEASURES OF ADDITIONAL SUPPORT

Various suggestions have been advanced for rendering additional public assistance to New York State's nonpublic schools. Those most frequently mentioned are:

- Extending free textbook aid to pupils in elementary schools
- Providing pupil personnel services (guidance, psychological, speech correction)
- Providing remedial instruction in various subjects.
- Dual enrollment - permitting nonpublic school students to attend public schools part time
- Granting tuition scholarship to all nonpublic school students
- Aiding nonpublic schools directly.

Each of these will be examined briefly in this chapter with reference to legal and other pertinent considerations.

TEXTBOOKS FOR STUDENTS IN GRADES K-6

In 1966 the New York State Legislature mandated school districts to provide textbooks free to all pupils in grades 7 to 12 in both public and nonpublic schools. The State provides full reimbursement for cost of books up to a limit of \$10 multiplied by the number of pupils (but not for administrative expenses.)

It has been proposed by some that free textbooks be supplied henceforth at public expense to pupils in elementary schools as well.

Relevant Considerations

1. Some nonpublic school authorities say textbook aid does not help their schools because parents had always been required to buy their children's books anyway. Thus they say the law helps the parents but not their schools.
2. Publicly supported textbooks must avoid sectarian emphasis. Their use tends to weaken the sectarian thrust of nonpublic schools which may be religiously affiliated.
3. Under New York State law textbook purchases for resident pupils enrolled in grades 7-12 of public and nonpublic schools are "ordinary contingent expenses." Thus, in cases where budgets are not approved by the voters, it is the duty of the board of education to purchase and loan textbooks nevertheless. State aid paid is on the basis of actual expenses but not to exceed \$10 per resident pupil enrolled in grades 7 to 12. If the law were to be extended to cover elementary school pupils, such expenditures would also become "ordinary contingent expenses."

4. Questions of definition would be encountered. Under present State Guidelines, "A textbook is a book which a pupil is required to use as a text for a semester or more in a particular class in the school he legally attends. Textbooks acquired under this law shall be those which are primary sources of study materials intended to implement a major part of a State curriculum or a State-approved local curriculum." Excluded under this Act are reference materials, supplementary materials, workbooks, testing materials, teacher's editions and review books. These definitions would have to be reviewed, especially the exclusion of workbooks, since these frequently constitute a significant supplement to elementary classroom texts.
5. Cost estimates: If this service were made available for youngsters of the elementary grades in private schools, it would of necessity have to be made available to public school students as well. Financial estimates are therefore as follows:

Est. Nonpublic pupils	527,000	x	\$10	=	\$5,270,000
Est. Public pupils	1,900,000	x	\$10	=	\$19,000,000

Legal Aspects

Implementation of this proposal would require amendment of Education Law section 701, which presently limits the loan of textbooks to pupils in grades seven through twelve. The constitutional propriety of the loan of textbooks to pupils in nonpublic schools has been established by the New York Court of Appeals and the United States Supreme Court in East Greenbush v. Allen, 20 N.Y.2d 109, 392 U.S. 236 (1967).

PROVIDING PUPIL PERSONNEL SERVICES

It has been suggested that pupil personnel services (guidance, psychological, speech therapy, etc.) not directly related to instruction in specific subjects, be furnished to nonpublic school pupils at public expense. In fact, it has been contended that such services could be construed to fall under a broad definition of health services.

Relevant Considerations

1. As with textbooks it could be argued that this assistance would not be of significant help to schools in meeting their financial burdens inasmuch as most of them do not provide such services now. The services would of course help children.

2. Cost estimates:

K-12 guidance	872,000 pupils x \$15	= \$13,080,000
K-12 psychological	872,000 pupils x \$ 2.50	= 2,180,000
K-12 speech therapy	872,000 pupils x \$ 8	= 6,976,000

Legal Aspects

In evaluating this proposal from the legal standpoint, a distinction should be made between those services which may fairly be characterized as health services and services to the handicapped, and those which are primarily instructional in nature and are provided without regard to handicap.

New York State Constitution Article VII, section 8, provides that nothing contained in the State Constitution shall prevent the Legislature "...from providing for the...education and support of the blind, the deaf, the dumb, the physically handicapped, the mentally ill, the emotionally disturbed, the mentally retarded or juvenile delinquents as it may deem proper; or for health and welfare services for all children, either directly or through subdivisions of the State, including school districts..."

Education Law section 912 implements Article VII, section 8 by providing as follows:

"The voters and/or the trustees or board of education of a school district, shall provide resident children who attend schools other than public with all or any of the health and welfare services and facilities, including but not limited to health, surgical, medical, dental and therapeutic care and treatment, and corrective aids and appliances, authorized by law and now granted or hereafter made available by such voters and/or trustees or board of education for or to children in the public schools in so far as these services and facilities may be requested by the authorities of the schools other than public."

It is clear from the foregoing that Article XI, section 3 of the State Constitution presents no barrier to the provision of health services for all children, whether enrolled in public or nonpublic schools. In view of the holding and language of the majority of the United States Supreme Court in East Greenbush v. Allen, it is unlikely that the courts would find that either the present provisions of section 912, or any extension of those provisions within the limitations of Article VII, section 8, would offend the First Amendment of the United States Constitution.

With respect to those types of pupil personnel service which are not related to health or handicap, the legal questions will be essentially those presented by the "shared time" or dual enrollment" concept and will be discussed in this paper under the heading "Dual Enrollment."

PROVIDING REMEDIAL SERVICES

It has been suggested that remedial teachers be provided at public expense in nonpublic schools.

This differs from the previous proposal in that it is directly related to instruction in specific subjects.

Relevant Considerations

A philosophical problem arises here. If it is justifiable to provide publicly supported remedial instructors for children who are encountering difficulty in a subject, why not provide the entire instruction initially? Do not all students encounter difficulty to some degree?

Also, would public school teachers assigned to remedial teaching in nonpublic schools sometimes find themselves required to reinforce teaching which had sectarian emphasis, especially in English and Social Studies?

Cost estimates:

K-12 Remedial teaching	872,000 x \$5	= \$4,360,000
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Legal Aspects

A proposal to provide remedial services to pupils in nonpublic schools presents essentially the same legal questions as are discussed in this paper under "Dual Enrollment."

DUAL ENROLLMENT

This has been defined as an arrangement which permits a student to attend a public school part time and a nonpublic school part time, concurrently pursuing each part of his elementary or secondary program of studies under the direction and control of the respective public or nonpublic school.

Various other terms which have been used are "shared time", "educational cooperation" and "dual registration." In dual enrollment arrangements, public schools provide instruction for nonpublic school students in subjects usually regarded as secular such as mathematics, vocational, technical, laboratory science and "home economics." English and social studies are usually considered value subjects and taught by the parochial schools. Dual enrollment programs currently in operation in various parts of the nation are mainly on the secondary level.

This plan generally does not include a provision for a reverse arrangement whereby public school students would attend a parochial school for any classes.

If the dual enrollment concept were to be implemented, it might be applied to services provided through Boards of Cooperative Educational Services as well as the programs of school districts themselves.

Relevant Considerations

Financial implications are difficult to estimate:

Costs - Dual Enrollment - BOCES

BOCES services generally cover the education of handicapped children and vocational education. Presumably the full range of services would be included. If we assume that nonpublic school pupils would use the services in the same proportion as those in public schools, the cost of occupational education alone might be estimated:

Nonpublic school students involved might approximate 8,000.
Cost \$800 each - Estimated total \$6,000,000.

This is a minimal figure which does not include such things as the need for additional space, maintenance, transportation, building costs, or amortization of facilities. An important and practical concern relates to the overtaking of present facilities, which in many instances, are already overcrowded. Some additional expenditures would be incurred for BOCES services to handicapped children, but nonpublic schools have traditionally enrolled relatively few such children.

Costs - Dual Enrollment - Local Districts

Presently 20 villages and 23 cities, apart from the "Big Six Cities" are not members of BOCES. Programs which could be included in shared time arrangements in these districts could embrace all present curricular offerings, excluding only religious courses, English and social studies. No reliable estimate of costs is feasible at this time.

Costs - Dual Enrollment - Big Six Cities

For occupational education alone, assuming an enrollment of 40,000 to 43,000 pupils from the nonpublic schools and an average cost of \$800 to \$1000 per pupil, the total cost would be in excess of \$40,000,000. This does not include building, transportation or additional costs. Some additional expenditures for handicapped children would be involved.

Extension of dual enrollment to other curricular offerings would entail additional costs.

Public financing of dual enrollment classes would presumably be shared by the student's home district and the State. This would, of course, require changes in State Aid Laws to permit counting attendance of part-time students. The financial impact of the local share would vary greatly from district to district, causing heavier financial strain in districts which have a large proportion of students enrolled in nonpublic schools. Careful study would be required in order to ascertain implications for each district.

Administrative problems would be encountered when children from nonpublic schools were brought into the public schools part time. Even if the schools were located near each other there would be questions of:

- Transportation
- Scheduling of classes
- Adequacy of facilities
- Attendance, reporting of pupil progress, awarding of course credits, diplomas, etc.
- Billing and collecting tuition from home districts when nonpublic students reside elsewhere than in the district in which the nonpublic school is located.

Administrative problems would be increased if the distances between schools is greater. Dual enrollment might then require that the public school district lease space within the nonpublic schools itself and send public school teachers in to teach the designated subjects. Thus in effect a portion of the nonpublic school would become public school premises for that period.

Shared time arrangements have been established in various states, as pointed out in Chapter VI. An interesting evaluation of shared time experimentation in Chicago is described in (Appendix G).

Apart from financial and administrative considerations, many arguments for and against dual enrollment have been advanced by proponents and opponents. They include:

Arguments for Dual Enrollment

The dual enrollment concept is believed to be a constitutional means of settling the controversy over general public aid to elementary and secondary schools.

Dual enrollment is not a new idea; it has operated in many parts of the United States and has been received favorably.

It would provide a more satisfactory educational opportunity for all pupils than is possible under present arrangements.

Educational facilities would be used more extensively.

All children would benefit from the experience of association with each other, thus promoting intergroup understanding.

Cooperation between public and nonpublic schools would be enhanced.

Authorization of shared time arrangements would offer all religious groups a better opportunity for providing religious instructions for their children by avoiding the all or nothing choice now required.

Shared time would reduce the pressure for religious observance and teaching in the public schools.

Arguments Against Dual Enrollment

Dual enrollment programs would make it difficult to achieve a desirable correlation within the whole curriculum.

Public schools would need additional facilities and staff.

Shared time might create intergroup problems if students were identified by religious preference.

Shared time might require a longer school day and a longer school year.

Public and nonpublic authorities would be required to reach difficult decisions, sometimes involving school prestige.

Shared time would present for children from small nonpublic schools a more complicated educational environment.

Selection of neutral or value courses varies among nonpublic school education.

Legal Aspects

The New York State Attorney General, in an opinion rendered to the Commissioner of Education in 1965, ruled that Article XI, section 3 of the State Constitution prohibits the use of State or local property, credit or funds for dual enrollment programs involving pupils enrolled in sectarian schools. The Attorney General rejected any distinction between regular instruction and remedial instruction, and held that both would constitute aid to sectarian schools and is therefore prohibited.

In reaching his conclusion, the Attorney General relied heavily upon the decision of the United States Supreme Court in Judd v. Board of Education,

278 N.Y. 200 (1938), which interpreted Article XI, section 3 in the following language:

"Aid furnished 'indirectly' clearly embraces any contribution, to whomsoever made, circuitously, collaterally, disguised, or otherwise not in a straight, open and direct course for the open and avowed aid of the school, that may be to the benefit of the institution or promotional of its interests and purposes. 'It helps build up, strengthen and make successful the schools as organizations.'"

In East Greenbush v. Allen 20 N.Y.2d 109 (1967), a four member majority of the Court of Appeals, in upholding the validity of New York's Textbook legislation, expressly overruled the reasoning of Judd to the effect that State action which, even though primarily for the benefit of the pupil, has the effect of giving a constitutional benefit to sectarian schools, contravenes Article XI, section 3. Judge Scileppi, writing for the majority, expressed the Court's broader view of Article XI, section 3 in these words:

"The New York State Constitution prohibits the use of public funds for a particular purpose; that is, aiding religiously affiliated schools. Certainly, not every State action which might entail some ultimate benefit to parochial schools is proscribed. Examples of co-operation between State and church are too familiar to require cataloguing here. As we said, although in a different context: 'It is thus clear beyond cavil that the Constitution does not demand that every friendly gesture between church and State shall be discountenanced. The so-called 'wall of separation' may be built so high and so broad as to impair both State and church, as we have come to know them.' ...The architecture reflected in Judd would impede every form of legislation, the benefits of which, in some remote way, might inure to parochial schools. It is our view that the words 'direct' and 'indirect' relate solely to the means of attaining the prohibited end of aiding religion as such. ... Since there is no intention (in New York Textbook Law) to assist parochial schools as such, any benefit accruing to those schools is a collateral effect of the statute, and, therefore, cannot be properly classified as the giving of aid directly or indirectly."

The validity under Article XI, section 3 of a program of dual enrollment or shared time intended and designed to benefit the student, and assisting parochial schools only as a collateral effect, would undoubtedly be examined in light of the broad language of East Greenbush.

With respect to the Federal constitutional question, it seems likely that a dual enrollment program which could withstand the strictures of Article XI, section 3 would be found not to violate either the "establishment" or the "free exercise" clause of the First Amendment.

It should be pointed out that existing constitutional tax and debt limits might well make it impossible for many city school districts to undertake dual enrollment programs, even if authorized to do so by constitutionally valid legislation, and that repeal or revision of those limits would therefore be essential to full implementation of the dual enrollment concept.

TUITION PAYMENTS

It has been suggested that State subsidies be provided to parents to apply against tuition charges in nonpublic schools. This would be an extension into elementary and secondary levels of the Scholar Incentive Plan presently operating at the college level in New York State.

Relevant Considerations

Administration would be a major problem. The Scholar Incentive Plan presently for colleges embraces 208,000 students. If such subsidies were extended to the approximately 875,000 children who attend nonpublic elementary and secondary schools, the total number of such tuition payments would be approximately 1,083,000.

In order to understand the administrative problems involved, it might be well to review the procedures under which the present college scholar incentive tuition payments are made. Each student submits an application, including a statement of family income. The State Education Department then determines the amount of the tuition payment to which he will be entitled, based upon his family income, and issues him an award certificate. He presents this to the college he will be attending and the college then reduces his tuition charge by the amount of his entitlement. The Education Department sends to the college a list of the students who have indicated they will enroll therein and the amount of their individual entitlements. The college certifies that each student is in attendance and in good academic standing. The Education Department then notifies the Office of the Comptroller who authorizes the State Treasurer to issue a check to the individual student. This is then sent to the Education Department for forwarding to the college. The college then endorses the check under the power of attorney which it has previously secured from the student. The check, together with those of other students enrolled, is deposited in the college's general fund. If the student has already paid his tuition in full, the college transmits the check to the individual student for his own use.

The steps in the processing require several months after the beginning of the school year.

If such tuition payments were to be extended to children attending non-public elementary and secondary schools, the number of tuition awards would be multiplied by about five. This would, of course, substantially increase the administrative task.

As to the cost involved, this would depend upon the amount of such scholarships. If they were to average \$200 each, which is approximately the average of present college awards, the total cost would be about \$175,000,000.

The Scholar Incentive Aid Program presently applying to college students has not been challenged as to constitutionality. If a similar program were to be extended to elementary and secondary levels with consequent increase in public expenditure, it is possible that the principles on which all such aid is based would be challenged.

Legal Aspects

A definitive legal analysis of the tuition subsidy concept could be undertaken only on the basis of a thoroughly developed plan and is therefore beyond the scope of this paper. However, some observations may be made.

The United States Supreme Court has as yet neither approved nor disapproved of tuition grants to reimburse parents for the expense of providing their children's secular education at a church-affiliated school. Lower Federal courts have sustained such grants provided they do not tend to perpetuate racial segregation. Two State courts have barred--and there seems to be no question but that the Federal courts would do the same--tuition payments for church school pupils where the payments apply to all instruction, both secular and religious. No court has invalidated a statutory provision for tuition grants for specified secular subjects, such as U. S. history, English, foreign languages, mathematics, science and physical education.

It therefore appears not unlikely that a tuition subsidy plan which clearly limited State assistance to the cost of secular instruction in the nonpublic schools could meet the test of the First Amendment.

However, whether such a plan, constituting as it would a substantial--although indirect--form of aid to nonpublic schools would be found valid under Article XI, section 3 is most difficult to predict. The determination might well rest on the conclusion of the Court as to whether the intention and effect of such a plan is to assist children attending nonpublic schools or to assist the schools themselves.

Direct State Aid to Nonpublic Schools

If the State were to pay subsidies directly to nonpublic schools, the cost would depend upon the specifics of the arrangement. No cost estimate can therefore be made.

Apart from the legal questions, decisions would have to be reached as to whether such aid would be on an equal allowance per pupil or varied according to the financial resources of the schools. Since nonpublic schools do not have power to levy taxes, the resources available would presumably involve such factors as endowments, present assets, economic level of parents, etc.

Legal Aspects

Direct financial aid to sectarian institutions, regardless of limitations on the use of such aid, is clearly unpermissible under Article XI, section 3.

If the State constitutional provisions were repealed, such aid, if clearly limited to secular purposes, might well be held not to violate the provisions of the First Amendment.

CHAPTER V

QUESTIONS AND ISSUES

Beyond the questions already posed, providing public support for nonpublic schools would involve other fundamental issues of policy.

Examples of additional questions raised for the schools themselves may be cited:

If public financial support were to be provided in any form, would nonpublic schools accept the requirements now applying to public schools?

Adopt prescribed accounting and reporting methods?

Make records available for public inspection?

Submit to periodic audits?

Accept standards of educational practices for teacher qualifications, facilities, etc.

Adopt policies in public meetings?

For schools organized to perpetuate and strengthen a sectarian culture, would increase reliance on secular textbooks and secular teachers tend to weaken their thrust toward the very purpose for which they were organized? If public aid were to be provided nonpublic schools on the premise that they serve a public purpose, does it follow that they would then be required to discontinue considering religion, race, sex or ethnic background in their acceptance of students?

For the general public there are fundamental questions also:

In a nation of great diversity resulting from various racial and nationality backgrounds, the public school system attended by all has been thought to be a very important unifying influence. Would this be weakened if there should be a proliferation of nonpublic schools as a result of financial support?

On the other hand, is pluralism in education a valuable force which should be encouraged?

As to economic considerations, would public financial resources be overburdened if nonpublic schools were to curtail or discontinue their operations and return their students to the public schools? Would it not be less expensive for the public to support the private schools?

On the other hand, if tax resources for education are destined to be limited in relation to mounting costs, the greatest efficiency must be sought. Would it not be highly inefficient to carry on much of education in small units so often characteristic of private schools? There has been a strong trend in public school organization to merge small districts into larger ones to attain educational and economic efficiency.

As to educational quality, is it wiser to concentrate resources and efforts in the improvement of public schools, or might the encouragement of good private schools promote a healthy competition for educational improvement? What assurances are there that private schools would be of high quality?

These questions serve to illustrate how perplexing and fundamental are the issues of public aid to nonpublic schools. They involve judgments on which citizens hold widely differing views. The reasoning underlying divergent viewpoints is articulated in two thought-provoking statements appended hereto; Father Neil G. McCluskey's article entitled "Child Support or Wall of Separation?" (Appendix H) and Philip Jacobsen's statement "The Nonsectarian Public Parochial School" (Appendix I).

CHAPTER VI

LEGISLATIVE DEVELOPMENTS IN OTHER STATES

Several states have recently enacted legislation affecting aid to nonpublic schools. Others have considered such legislation.

Information gleaned from various publications and telephone conversations with the respective State Education Departments, summarized below, is believed to reflect the situation in these states.

Enacted

Connecticut - Public Act No. 791, 1969

The Secretary of the State Board of Education is required to contract with any nonpublic school meeting minimum standards "to purchase secular educational services" and to pay:

1. 20% of the salary of teachers of secular subjects (base salary without retirement or other fringe benefits, but not to exceed public salary schedule).
2. Cost of textbooks for secular subjects up to \$10.00 per pupil in grades 1 through 8 and up to \$15.00 per pupil in grades 9 through 12.

If 1/3 of the pupils of a nonpublic school are educationally deprived the 20% figure rises to 50% and if 2/3 of the pupils are so deprived, to 60%.

Open enrollment is required as well as visitation and inspection by the state which must appoint a special staff to administer the act. The act authorizes any taxpayer to bring suit to challenge the constitutionality of the act which appropriates \$6,000,000 (there are 360 private schools in the state).

A court test has been instituted (Appendix J).

Ohio - (Revised Code Section 3317.06, Division (H); 1967; First Funds 1968)

The state pays to school districts amounts approved by the state board for services and materials to pupils of nonpublic schools for:

1. Guidance, testing and counselling programs.
2. Programs for deaf, blind, emotionally disturbed, crippled and physically handicapped children.

3. Audio visual education.
4. Special and hearing services.
5. Remedial reading programs.
6. Educational television service.
7. Programs for improvement of educational and cultural status of disadvantaged pupils.
8. "Programs of nonreligious instruction other than basic classroom instruction."

The state is to adopt guidelines and procedures. First distribution of funds was in 1968, not to exceed specific appropriations.

Guidelines for supplemental salary allocation to lay teachers in nonpublic schools have been developed.

Pennsylvania - (Title 24, Pennsylvania Statutes, Chapter 23, Sections 5601 - 5609)

Sections 5605 and 5606 create the "Nonpublic Elementary and Secondary Education Fund," to consist of proceeds from horse racing (up to the first ten million dollars received from that source and, in addition, one half of the excess over ten million dollars so received). Until these funds come in annually, three-fourths of the proceeds from harness racing to the extent not required for certain other purposes are assigned to this fund until the fund reaches ten million dollars.

The chapter authorizes the superintendent of public instruction to make contracts with nonpublic schools for the purpose of "purchasing" secular educational services which are limited to mathematics, modern foreign languages, physical science and physical education. Only textbooks and other instructional materials approved by the state superintendent may be used, a satisfactory level of pupil performance in standardized tests approved by the state superintendent must have been attained and certification of teachers will be required after five years (from 1968).

The nonpublic schools must maintain special accounting procedures including maintenance of separate funds and accounts. Such accounts are subject to audit by the Auditor General of the State. Reimbursement may not exceed the total amount actually paid into the nonpublic elementary and secondary education fund in that fiscal year.

A court test has been instituted. (Appendix K)

Several shared service programs exist but most are centered in the western part of the state in the Allegheny County area. The law providing for state aid for specialized courses has been in existence since 1910. There has been very little actual change in enrollment or services provided since 1965. Four schools in Allegheny County, (all newly constructed buildings whose funds came from the Appalachia Act), Forbes Trail at Monroeville, Steel Valley at West Mifflin, Parkway West and A. W. Beattie Area Vocational School serve an estimated 75-100 nonpublic students.

Rhode Island appropriated \$375,000 for part payment of teachers' salaries in grades 1 through 8. The bill provides for underwriting 15% of salaries of those teaching secular subjects and who receive a wage of \$4,000 a year but not more than the maximum in the public schools.

A nonpublic school is defined as one which is not operated for profit and which does not expend more per pupil than at the average public school.

The Act also provides for the method of determining the amount of the supplement regulation by the Commissioner of Education and an appropriation of \$375,000. The Act took effect on July 1, 1969.

Legislation Considered in Various States

Illinois - Amended House Bill 1116

An act which adds to the school code in relation to the establishment, operation and maintenance of public schools, providing for transportation and scholarship for students in institutions of higher learning and the purchase of services for pupils in all schools. It provides for annual tuition grants to Illinois resident students at approved nonpublic elementary and secondary schools. Also, it establishes standards for schools to obtain such approval, provides a grant of \$60 for each elementary student and \$90 for each secondary school student. A contract procedure is established for paying and receiving such grants. Appropriates \$32,000,000 annually for the purchase of services provided and administration thereof.

Dual enrollment programs are regarded as permissible under present law. One such arrangement was begun at Elk Grove in 1965. Contributing factors were the following: junior high schools across the street from each other, parochial schools needed help, young population (average 28 years old), no other private schools in the community, and the community was 65% Catholic.

Only 200 children participated, 100 in each of two sessions. The state approved the counting of students one half time ADA. Parental choice was the main criterion for participation. Once the private students came to the public school, they became part and parcel of the public school operation (could not wear uniforms).

Curriculum: coursework for private students mostly Mathematics, Science, Physical Education. All youngsters were provided with psychological and speech services. This was never challenged because the community knew that all the students would be coming to the public high school ultimately. Youngsters were mixed together for grouping according to ability. No exchange of textbooks was necessary. Test results were fed back to private school authorities.

No local tax rate was necessary because of the program.

An ambitious dual enrollment program was carried out in Chicago. A report thereon is included herewith as stated previously in Appendix G.

Michigan - House Bill No. 2424 (defeated)

No specific sum is appropriated for the aid payable under this bill but the sum of \$1,200,000 is appropriated in the bill for the school year 1969-70 for the administration of the act.

The bill proposes an appropriation for each intermediate school district for 1969-70 and for each year thereafter which sum is determined by multiplying the number of nonpublic pupils residing in a school district by an allowance equal to $\frac{1}{2}$ of full time ADA payments. The total is not to exceed the sum of average net full time attendance multiplied by the total nonpublic attendance, but not more than 20% of total public school attendance.

Special provision is made for nonpublic schools within the inner city and within target areas designated by the State Board of Education as containing a substantial number of children suffering economic, educational, and cultural deprivation. For these pupils the act appropriates a sum multiplying the number of such children by a "scholarship" equal to the average of the net attendance allowance for the public schools. This inner city aid is not, however, cumulative with the basic allowance set forth above.

From this money the school district "purchases educational services" comparable to those offered in the public schools provided the nonpublic school is nonprofit, meets minimum standards and has open enrollment under the Civil Rights Act.

Services purchased include:

1. Professional teacher services (certification required), and with subject matter "comparable" to what is taught in the public schools.
2. Library and audio visual personnel services (if the person involved could serve in the public schools for comparable subjects.)
3. Educational counselling services.
4. Purchase of "educational components, materials and services designed to increase learning capacity and educational programs, materials and services, designed to increase performance of teachers and pupils."

Payment is made directly to the persons providing the service involved. For personal services payment must be made at least bi-weekly up to 90% of cost but may not exceed the average payment to the public schools. The State supervises testing of performance and is required to audit both the school district and the nonpublic school involved.

No money under this bill may be spent for religion or where the teaching "primarily inculcates religious tenets or doctrines."

Shared service programs have existed for some years. Those schools cited in 1964-65 by NEA and HEW were unique at that time. Cheboygan's is the oldest program and it still exists, but there are now larger ones. The most outstanding is in Centerline, Michigan which has an actual contract to provide basic education as well as special education to parochial students. Public enrollment is 6,000 nonpublic about 1,000. Fitzgerald (in the same area) is setting up a similar program. Saginaw Township is also developing a program.

There has been no legal challenge so far. An Education Reform Session is to begin this month (October, 1969) to consider the plight of the parochial school and talk is of a \$30-\$50 million package for lay teachers in parochial schools. The Governor is expected to present a bill for this within the next two weeks.

Missouri - (Senate Bill No. 375)

Legislation calls for the provision of reimbursement payments to parents and guardians who pay tuition for education of children in Missouri private schools. \$50 each semester for each student grades 1-8; \$100 each semester for each student grades 9-12. Amount to be doubled if parents effective income is \$3,000 or less. Allows also for establishment of the "Educational Aids - Private Schools - Pupils Fund." Based upon an estimated enrollment in private schools of 125,790 elementary and 37,963 secondary students, with 15% of the parents having incomes under \$3,000, first year cost would be \$23,197,300.

New Mexico - (House Bill 61) "Nonpublic School Student Tuition Grant Act"

Provides for grants of money by the State Treasurer to parents of residential students in nonpublic schools in New Mexico in specified amounts - \$100 for each school term for student attending grades 1-8 and \$200 for students attending 9-12, with an increase to \$125 for grades 1-8 and \$250 for grades 9-12 where parents effective income is \$2,000 or less per year.

The New Mexico Department of Justice finds no constitutional prohibition against a grant by the state for this purpose provided payment is made directly to parents and not nonpublic schools. Grants were not to exceed actual tuition payment nor be applied for tuition payments for religious instruction.

West Virginia - (House Bill No. 712)

A Bill was introduced in January, 1969 relating to state-aid to nonpublic schools. It provided for the county boards of education to have the power and duty to purchase from nonpublic schools secular education courses including mathematics, modern foreign language, physical science, geography, English, physical education and all other secular courses not involved or concerned with religious teaching or the morals or forms of worship of any sect. A credit for such purposes in computing state aid to counties will be granted under the state aid formula.

State Education Department estimates are that since 1965, dual enrollment programs in West Virginia have not changed substantially. St. Joseph's High School has enrolled pupils in Cabell County Schools in Huntington since 1930. The program has covered science in high school, art in junior high and other areas for both including guidance. Central High (Catholic) and Wheeling High School, Wheeling, West Virginia, are located across the street from one an-

other and have a very compatible, cooperative system. The best shared service program in the State is the one conducted between Lewis County High School and St. Patrick's School located in Weston, West Virginia. The County High School has a 1400 enrollment and St. Patrick's has 73 students in grades 9-12. Nearly all the St. Patrick's students share the high school services in some way.

A transportation problem is predicted which may affect these programs and which has limited their growth. The State Supreme Court has ruled that counties must provide transportation to nonpublic students and counties are refusing to do so. They have done so in the past only when it was convenient.

Montana -

Under present Montana Law (75-3501, RCM. 1947) textbooks are loaned to pupils attending public schools free of charge. The superintendent of public instruction is granted the power (75-3408, RCM. 1947) to provide transportation for students to nonpublic schools, who reside three (3) or more miles distant from said school; or to contract to the parent or guardian in lieu of furnishing transportation. The superintendent also has authority to reimburse parents or guardians for the cost of transportation. Proposed legislation confirms provision for both services referred to above; proposes the creation of a nonpublic elementary and secondary education fund and that the Superintendent of Public Instruction be authorized to enter into contracts with nonpublic schools for the purchases of instruction in secular subjects.

Vermont (Bennington)

The public school board of education, in an effort to enhance community solidarity, approved the provision of shared services in various subject areas for all 340 youngsters in the local Catholic high school. Areas were to include:

- a) All Industrial Arts and Vocational Shops
- b) Mechanical Drawing
- c) Homemaking
- d) Physics
- e) Biology
- f) Advanced Business
- g) Advanced placement and remedial instruction
- h) A modern foreign language other than French

The plan was never implemented, however, since the parochial high school closed suddenly, at the end of the school year. The resultant overcrowdedness necessitated adding a dozen relocatable classrooms to the new public high school, as well as the rental of the former Catholic school building.

Shared services are conducted at the elementary level presently. Parochial school youngsters are brought into the public (rented Catholic facility) building for physical education. An informal and mutually acceptable arrangement exists for shared services in instrumental music also.

According to the Attorney General of Vermont (September, 1969), "In our opinion, the proposed plan does not involve a public institution giving aid to a parochial school, but rather permits all children of the public to receive instruction in physical education without regard to their religious beliefs and without preventing them from receiving religious instruction outside the public school system. Accordingly, we are of the opinion that the plan suggested by the Bennington School District, Inc., is proper."

A further compilation of legal actions by various states, as published in State Government News, is included as Appendix L.

BIBLIOGRAPHY

- America. "Crisis of Growth." America 109: 250; September 14, 1963.
- Anderson, Walter A. "Shared Time, I'm Against It." NEA Journal 53: 28, 30; March 1964.
- Bennett, John C. "Aid to Parochial Schools: Two Considerations." Christianity and Crisis 21: 61-62; May 1, 1961.
- Best, J.H. "Relationship in Transition: public and private education" Educational Leadership Volume 26, December, 1968, pp. 250-253.
- Brickell, Henry M. Nonpublic Education in Rhode Island: Alternatives For the Future. A Study for The Rhode Island Special Commission to Study the Entire Field of Education, July 1969.
- Brickman, William W. "For and Against Public Aid to Religious Schools." Vital Issues in American Education New York: Bantam Matrix Editions, 1964.
- Bureau of Educational Research and Development, Department of Health, Education and Welfare, Dual Enrollment in Public and Nonpublic Schools, Washington, D.C.: U.S. Government Printing Office OE-24014 Cir. No. 772.
- Cassels, Louis. "A Way Out of Our Parochial-Public School Conflict." Look 26: 54-62; August 28, 1962.
- Clayton, Alfred S. Religion and Schooling. Waltham: Blaisdell Publishing Company, 1969.
- Fleming, Thomas J. "The Crisis in Catholic Schools." Saturday Evening Post 236: 19-25; October 26, 1963.
- Hesburgh, Theodore M., C.S.C. Catholic Education Faces Its Future Garden City Doubleday and Company. 1968.
- Hill, Henry Harrington. Public Funds For Private Schools? George Peabody College for Teachers (1962).
- Hutchins, Robert M. "A Liberal Calls for Aid to Church Schools." The Saturday Evening Post June 8, 1963.
- LaNoue, George R. "Church-State Problems in New Jersey: The Implementation of Title I (ESEA) in Sixty Cities" Rutgers Law Review, Volume 22, Number 2, Winter 1968 pp. 219-280.

LaNoue, George R. "The Establishment Clause: Requiem or Rebirth?"
Phi Delta Kappan, October, 1968, p. 85.

McGarry, Daniel D. Educational Freedom and the case for government aid to students in independent schools. Milwaukee: Bruce Publishing Company, 1966.

"Schools and Churches." New Republic 148: 3-5;
March 23, 1963.

Patrick T.L. "Effect of Public Support on Private Education."
School and Society Volume 96 November 23, 1968, pp. 433-434.

Research Division, National Education Association, Shared-Time Programs: An Exploratory Study Research Report 1964-R 10.

Ryan, Mary Perkins. Are Parochial Schools the Answer? New York. Holt, Rinehart and Winston, 1963. 176 p.

Strasser, William C. Jr. "Dual Enrollment (Shared Time) Patterns, Reactions, and Problems." Phi Delta Kappan, June, 1965, p. 509.

Swanson, Austin D. and Igoe, Joseph A. Western New York State Study Council, Should Public Monies Be Used to Support Nonpublic Education? Danville, Illinois: Interstate Printers, Inc. 1967.

Thayer, V.T. The Attack upon the American Secular School. Boston: Beacon Press, 1951, 257 p.

U.S. Library of Congress. Legislative Reference Service. Proposed federal promotion of "shared time" education" a digest of relevant literature and summary of pro and con arguments. 1963.

"Catholic Schools: Your Stake in Their Future."
School Management April, 1969 pp. 44-89.

Financing the independent school of the future.
The edited proceedings of three meetings, Houston, Texas, March 21-28, 1968. Boston: NAIS, 1968.

APPENDIX A NONPUBLIC SCHOOL ENROLLMENT BY AFFILIATION

FALL 1968

Religious Affiliation	Kgn. Half Day	Kgn. Full Day	1	2	3	4	5	6	7	8	9	10	11	12	Post Graduate	Un-Graded	TOTAL
STATE TOTAL	20,645	10,137	81,119	82,230	82,131	82,345	81,907	80,733	76,748	74,298	52,366	49,686	47,933	43,262	1,151	6,026	872,713
Roman Catholic																	
New York	4,204	974	19,846	19,827	19,906	19,812	19,548	19,295	18,336	17,484	13,408	12,511	12,030	11,459	243	38	208,922
Albany	2,643	60	3,750	3,821	3,884	3,831	3,739	3,749	3,541	3,561	2,820	2,797	2,620	2,515	2	35	43,366
Brooklyn	2,339	1,364	21,713	21,902	21,828	21,828	21,999	21,050	20,071	19,125	10,265	10,158	9,751	8,913		132	212,433
Buffalo	3,347	1,103	7,864	8,108	8,157	8,206	8,192	8,024	7,306	7,155	5,135	4,587	4,383	4,368	6	285	86,222
Ogdensburg	336		1,275	1,339	1,300	1,314	1,264	1,305	1,016	1,006	658	676	643	632	16	1	12,788
Rochester	1,465	153	4,254	4,519	4,526	4,596	4,691	4,717	4,362	4,305	2,772	2,603	2,362	2,427		217	47,966
Rockville Center	48	57	8,216	9,169	9,311	9,497	9,431	9,456	8,747	8,779	4,839	4,572	4,366	2,300		9	88,799
Syracuse	1,360	506	3,432	3,435	3,420	3,381	3,498	3,457	3,285	3,226	2,593	2,424	2,250	1,968			38,231
Nonaffiliation	70	27	107	100	97	96	98	99	117	126	675	587	599	525	4	102	3,422
TOTAL Roman Catholic	15,812	4,244	70,457	72,220	72,429	72,561	72,460	71,152	66,781	64,767	43,165	40,915	39,004	35,107	271	819	742,166
Jewish																	
Conservative	104	162	251	192	182	185	149	115	111	105	36						1,599
Orthodox	564	2,998	3,645	3,575	3,659	3,560	3,591	3,479	3,397	3,256	1,951	1,657	1,575	1,263	541	747	39,451
Nonaffiliation	127	454	514	466	465	433	347	352	278	223	1,635	1,578	1,611	1,465	124	145	10,211
TOTAL Jewish	795	3,614	4,410	4,233	4,306	4,178	4,087	3,946	3,786	3,584	3,622	3,235	3,186	2,728	665	892	51,266
Other																	
Other																	
Atlantic District	737	77	906	853	824	821	813	797	676	620	345	333	295	292	1		8,399
Eastern District	143		171	153	153	144	142	136	134	116							1,299
Nonaffiliation	21		30	43	47	48	50	61	56	34						21	41
TOTAL Lutheran	901	77	1,107	1,049	1,024	1,013	1,005	994	866	770	345	333	295	292	1	21	10,099

APPENDIX A

(Concluded)

Religious Affiliation	Kgn. Half Day	Kgn. Full Day	1	2	3	4	5	6	7	8	9	10	11	12	Post Grad- uate	Un- Graded	TOTAL
Day Adventist																	
Atlantic Union																	
New York Conference			57	48	50	51	70	66	58	64	42	42	35	24			143
North Eastern Conference	15	15	121	115	114	135	119	110	118	91	67	63	60	44	1	2	701
Greater New York Conference			32	31	33	51	51	57	65	57	52	48	35	22		1	938
7th Adventist																	
Episcopal			210	194	197	237	240	233	241	212	161	153	130	90	1	3	2,317
Episcopal																	
Diocese of New York	291	68	268	269	241	214	231	206	239	198	209	214	216	170	3	70	3,107
Diocese of Long Island	116	280	403	325	258	258	214	210	202	163	117	102	115	104		13	2,880
Unaffiliated	9	15	27	16	25	25	28	19	40	41	73	93	120	109		7	647
Episcopal	416	363	698	610	524	497	473	435	481	402	399	409	451	383	3	90	6,634
Society of Friends	115	45	110	109	108	90	96	111	173	170	225	206	206	164			1,928
Unitarian			3		3	4	6	6	5	7	6						40
Evangelical Orthodox	132	117	305	239	217	212	171	142	122	100	22	17	13	14			1,823
Evangelical Orthodox									1	4	12	11	10	5			43
Methodist				2	3	1	2	3	1	1	3			5		20	41
Episcopal			25	25	23	22	23	22	1	1	1					22	166
Evangelical	2,474	1,660	3,794	3,549	3,297	3,530	3,344	3,689	4,290	4,280	4,406	4,407	4,638	4,474	210	4,159	56,201

APPENDIX B
NONPUBLIC SCHOOL ENROLLMENT BY COUNTY
FALL 1968

COUNTIES	Kgn. Day	Half Day	GRADES												Special	TOTAL
			1	2	3	4	5	6	7	8	9	10	11	12		
STATE TOTALS	20,645	10,137	81,119	82,230	82,131	82,345	81,907	80,733	76,748	74,298	52,366	49,686	47,933	43,262	1,151	872,717
Adams	1,124	49	1,658	1,763	1,842	1,724	1,684	1,716	1,818	1,762	1,416	1,342	1,264	1,193	1	20,471
Atchison	328		604	630	659	635	651	627	530	509	428	368	350	339	3	267
Barber	118	47	278	239	254	257	281	249	235	195	123	106	129	112	1	6,718
Beckham	55		238	260	257	304	326	313	324	313	242	241	237	209	1	2,624
Butler	141	55	263	294	300	304	290	323	226	251	144	103	100	109	1	3,320
Cherokee	47		214	221	261	275	273	291	280	239	149	147	139	152		2,938
Chickasaw	28		45	32	41	45	41	37	35	27	24	238	213	203	4	355
Crittenden	125		409	410	356	362	345	371	307	302	221	74	108	99		3,866
Dallas	41		31	54	31	50	47	46	58	61	61	74	108	99	48	809
Delaware	56	37	98	80	93	85	101	91	75	79	60	41	37	31		964
Dickens	160	21	785	775	820	760	765	729	646	610	476	541	569	495	38	38
Dodge	2,885	980	6,636	6,727	6,827	6,803	6,809	6,670	6,242	6,129	4,715	4,208	3,970	3,924	9	8,275
Douglas	20		65	101	101	97	102	123	105	109	32	36	48	45	7	73,903
Franklin	109		232	210	208	218	207	196	128	130	106	113	134	102	8	1,040
Grant	44		58	58	67	78	65	75	80	85	59	52	44	57	7	2,101
Greene	77	6	153	150	143	149	157	154	150	161	181	146	126	136	8	830
Haskell			36	42	49	34	44	47	40	39	61	63	55	62	19	1,908
Hill															60	632
Kimberly	74		128	153	148	162	138	140	112	112	29	34	35	36		1,301
Jefferson	101		212	219	226	227	226	245	207	211	159	157	133	172	1	2,496
Lincoln	30		60	70	48	60	45	55	32	24						424
Livingston	195		208	218	203	205	186	184	76	53					26	1,554
Logan	34		41	40	35	38	49	36	40	39						352
Marion	978	266	3,236	3,419	3,355	3,414	3,431	3,461	3,309	3,288	2,336	2,201	2,027	2,088	558	37,367
McPherson	59		105	90	101	130	115	120	118	151	131	136	131	120		1,507
Osage	663	368	6,260	6,997	7,124	7,326	7,337	7,352	6,873	6,986	3,170	2,955	2,869	1,767	7	68,623
Polk	7,721	6,903	42,885	42,580	42,128	41,766	41,614	40,651	39,585	37,453	27,055	25,875	25,507	23,707	802	448,778
Rock	316	64	653	736	718	766	782	752	684	700	546	561	571	539	1	8,395

(Concluded)

COUNTIES	Kno. Half Day	Kno. Full Day	GRADES														
			1	2	3	4	5	6	7	8	9	10	11	12	P. G.	Special	TOTAL
Alameda	277	193	823	801	774	775	808	803	786	745	591	631	591	576		22	9,196
Alameda	720	276	1,771	1,805	1,769	1,754	1,797	1,782	1,746	1,724	1,479	1,344	1,250	1,117		5	20,339
Alameda	169	4	192	228	210	214	212	194	187	177	113	114	69	99		8	2,190
Alameda	160		671	720	697	768	752	740	654	658	517	486	472	427	4	583	8,309
Alameda	16	6	70	78	75	76	64	78	36	38							528
Alameda	84		188	174	170	371	229	257	210	241	174	129	126	81		140	2,574
Alameda	50		73	73	65	63	73	66	71	69	45					58	706
Alameda	17	6	217	215	235	228	225	236	228	208							1,815
Alameda	501	65	793	741	762	762	751	740	705	705	855	899	867	832		14	9,992
Alameda	122	225	906	895	949	998	952	892	820	791	462	503	407	345	76	21	9,364
Alameda	46		384	421	432	433	421	419	332	320	175	168	163	155	4		3,873
Alameda	254		339	317	277	300	293	285	250	264	79	103	92	92	1	1	2,947
Alameda	423		507	503	511	502	499	482	406	404	341	333	284	327	1	35	5,558
Alameda											55	43	33	19			150
Alameda	38		85	72	88	70	82	84	53	66							638
Alameda	62	2	187	182	182	191	195	187	169	172							1,529
Alameda	296	101	2,953	3,123	3,062	3,104	3,014	3,033	2,706	2,686	2,375	2,217	2,106	1,086		90	31,952
Alameda	8		73	118	109	93	94	100	84	82	35	40	39	51	100	20	1,046
Alameda			45	51	50	42	38	56	2	2	1						285
Alameda			30	36	64	60	67	66	48	39		12	25	28	14		489
Alameda	7	53	397	347	429	393	424	415	356	358	138	122	85	55		289	3,868
Alameda	106		121	117	118	107	117	119	102	114	119	132	149	113			1,534
Alameda	75		70	75	73	75	88	79	67	69	3	3					677
Alameda	73		119	117	116	107	113	115	102	101							963
Alameda	1,597	394	4,357	4,268	4,360	4,436	4,334	4,293	4,201	4,131	2,859	2,640	2,324	2,105	92	117	46,508
Alameda	15	16	108	128	109	113	100	99	71	70	13	18	33	31	7		829
Alameda			22	25	19	19	29	33	29	36							314

STATEMENT OF

REV. PATRICK E. SHANAHAN, PRESIDENT

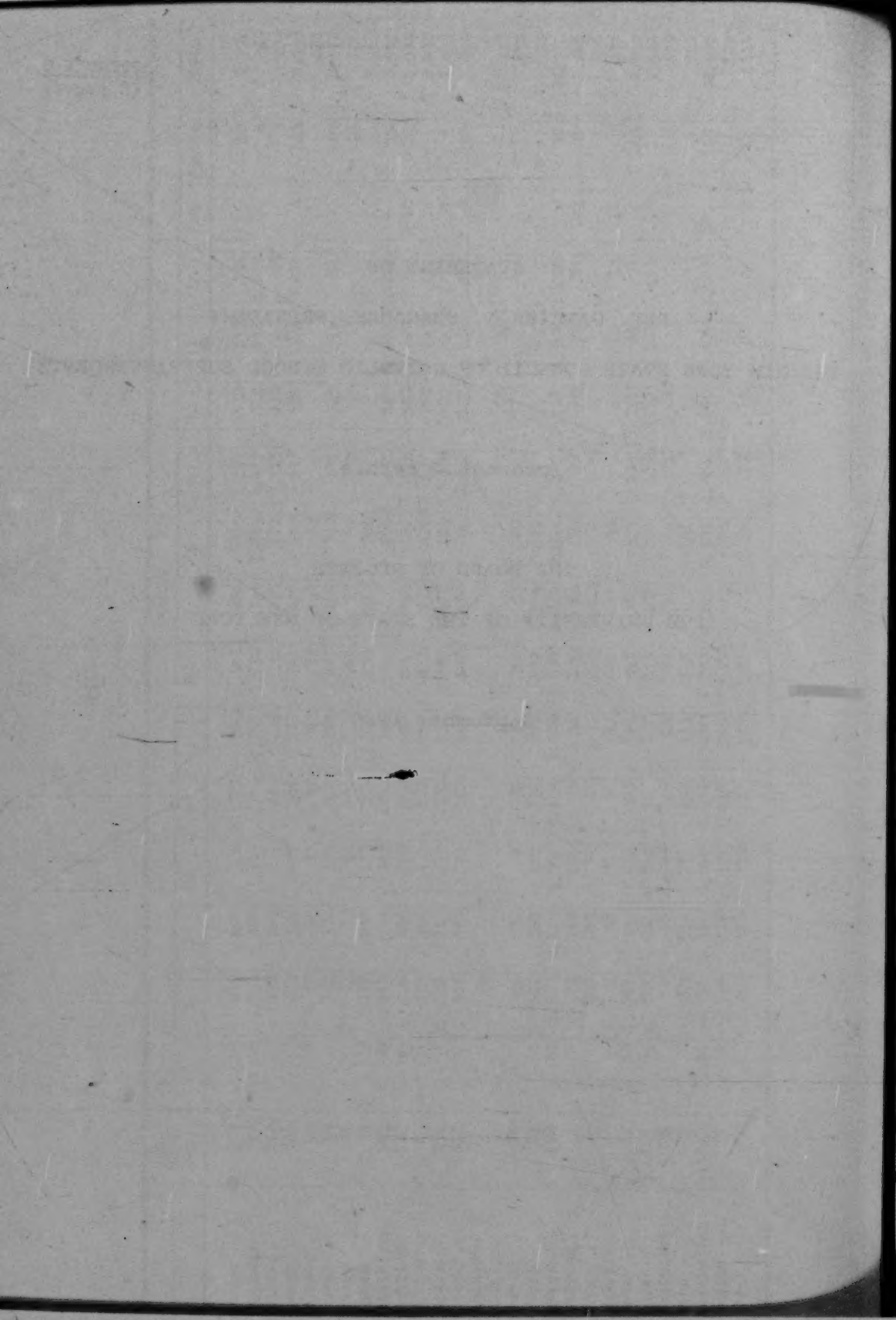
THE NEW YORK STATE COUNCIL OF CATHOLIC SCHOOL SUPERINTENDENTS

presented before

THE BOARD OF REGENTS

THE UNIVERSITY OF THE STATE OF NEW YORK

5 September 1969



My name is Patrick Shanahan. I am Superintendent of Catholic schools in the Diocese of Rockville Centre on Long Island. I appear, however, as President of the New York State Council of Catholic School Superintendents.

First of all, I wish to express the appreciation of our Council for this opportunity to address the Board of Regents. These crucial times make your responsibility for the education of all children in New York State a most weighty one. I would stress all children. For the problems facing education affect all schools, public and private, and any partial solutions would fail to meet the pressing needs.

Though grateful for this occasion to speak, I do so with some reluctance lest our efforts again prove fruitless. I must, therefore, express my disappointment and that of the other Catholic School Superintendents with your legislative recommendations for this past year. Last September at your first such hearing Monsignor Costello, Superintendent for the Diocese of Syracuse and then Council President, testified before you about the grave problems for which we felt we shared with you common interest and intent. You can imagine our surprise when your recommendations were published in December without a single reference to the educational welfare of over three-quarters of a million pupils in non-public schools.

Perhaps we failed to stress sufficiently the gravity of the situation. Permit me to do so this year by stating simply that the needs and rights of children in non-public schools cannot again be completely ignored. Your efforts and leadership toward the improvement of education in this state must involve non-public education in a meaningful way. Any legislative action for the increase of funds for education must this year include the non-public school child.

Gentlemen, the words of concern expressed by our Council at this same hearing a year ago were not empty ones. As subsequently discovered, enrollments in Catholic elementary and secondary schools had declined last September some 26,150 from the previous June. You may or may not be aware that in this past June, 1969, some twenty-two Catholic schools announced their closing; we have not yet obtained an accurate estimate of the numerous others which have deliberately phased out certain grade levels. We project a total state-wide decline this year in excess of thirty thousand children, reaching perhaps as high as forty thousand. The ramifications of this trend, which has been accelerating for the past five years in its rate of decline, would be far-reaching and indeed tragic if substantial numbers of these institutions were forced to close.

The loss would mean, first of all a diminution of freedom. Our country is a land of freedom because its people can exercise many liberties. The more these liberties are fostered, the stronger will be our state and country. One of the most fundamental of these liberties is the freedom of parents to enroll their children in either a public or non-public school which meets the academic criteria established by civil authority. If this liberty were only a paper one because the non-existence of schools other than public voided the exercise of that freedom, then this state and our country would be that much weaker, that much less free. The experiences of other countries with monolithic school systems should give us pause for thought as to the future of our country at a very crucial time in its history. We hold that the uniqueness of church-related and independent schools make a special contribution to the moral fibre of our society, to the principles of pluralism and parental rights so essential to a healthy nation. To sit by and do nothing beyond a show of sympathy would be a disservice to parents and pupils, indeed to all citizens.

The loss of these schools, furthermore, would be a loss tremendous savings to the burdened taxpayers of New York State. Last year alone the parents of children in our schools saved this state some three-quarters of a billion dollars in operational costs alone. I would hesitate to hazard a guess at the capital expenditures to house them in a period of sky-rocketing construction costs.

Yet I doubt if two billion would be far off, at least at this year's prices. And may I call to your attention that this savings in such vast amounts has been going on for years. This voluntary investment in education has been an unacknowledged boon to this State; now not only are the dividends in danger, but the account may have to be closed.

A third consequence is the necessary effect of that loss of savings: vastly increased spending for public schools, which means of course, higher taxes. It is somewhat difficult to imagine what would happen if a substantial number of our schools were forced to close. It would be as if this state, already over-burdened by educational costs, was asked to assume enrollments exceeding the State of Kentucky, Washington, Iowa, Connecticut, or anyone of the thirty states whose public school pupils are far fewer than New York's non-public schools'.

On Long Island, for example, as you well know, the financial pinch has become so great that over forty public school budgets were defeated when first submitted to the voters. Some call it a tax revolt. What would happen if these same people were asked to assume the total burden of educating the 88,000 children in the Catholic schools of Nassau and Suffolk Counties? Or what would happen in New York City if the 212,000 in the Brooklyn Diocese and the 209,000 in the New York Archdiocesan schools had to go elsewhere

The influx of these children in any great number does not mean additional revenues from new homes and industries. The children are already there, and the tax dollars of their parents are already paid and spent for present costs, in which their sons and daughters are not included in any significant way.

But of even more tragic consequence than damage to our dollars would be the effect upon children and their education. For they are our first obligation, our primary concern. Let me ask this question: could the public school system easily absorb the students in the non-public schools without some deterioration in quality and standards? In some areas, quite probably. But in the great majority of areas where there are large non-public school populations, I believe the results would border on chaos.

If I may again refer to Long Island, what would happen in Hicksville if our three Catholic elementary schools had to be closed? Only two years ago we housed a public school of that district in a new diocesan high school for one year because the public school building had been condemned. To have to add the equivalent of three new schools to an already hard-pressed district would be disastrous. Or suppose we were forced to phase out just the 7th and 8th grades of our schools in the Sewanhaka Central High School system.

There, I understand, they have a high school built for 1000 students but housing some 1,500. What would 700 more children mean for staff, class sizes, curriculum, equipment, schedules, auxiliary services, library facilities - in a word, the entire educational effort of a sorely tried, but striving district?

Instances like this would be detailed from all over the state. I relate them not as a scare tactic, but as a reality to dramatize, if you will, the enormity of the problem, which you and we must face and resolve.

I should indicate here our sense of urgency. Some people might view the decline of non-public schools to an insignificant role in education as a means of strengthening the position of the public school. A slow transferral of pupils over the next five or six years could be accommodated, they would assert and, therefore would urge no assistance. In all frankness I should indicate that we do not have the luxury of time: our people are looking now for decisions on the future of Catholic schools; costs have already exceeded revenues and predicted costs are impossible; and future plans must build on today's commitments to our personnel and of our facilities. To permit our schools to wither away would be self-destructive of any type or degree of educational effort which we might necessarily have to undertake in lieu of our current endeavor

Basic among various contribution factors to the problems of education is financial need. Non-public schools suffer in the same fashion as the public schools with rising costs, the value of the dollar, and increased demands for services and programs, and, of course, higher salaries. Dependent, however, upon tuitions and voluntary contributions, their position is far less stable and far more subject to an individual's budget cuts along the line of least resistance. The worries of public schools are real, but short-lived in the confidence that the basic dollars will always be forthcoming by law.

We cannot say the same, and the financial pressures on the supporters of the non-public elementary and secondary schools need some alleviation. It is here that we need your help - in the state's own self-interest at least, if not more justly from the right of these children and their parents to assistance.

The Council requests your serious and immediate consideration of this problem as it affects non-public schools. We shall be happy to assist yourselves or the staff of your Department in any way in seeking a solution.

For immediate response we would suggest a crash study of the issue, leaving a study-in-depth to the Commission of the Agents and the Governor, yet to be activated. We would look to

initial solutions being developed before the next session of the legislature. To that end we will submit with this Statement some preliminary investigations of our own Council which we are continuing, especially in the area of school costs, on a state-wide basis.

I would go even further by asking that you give some thought to various possible programs as enacted in other states such as Pennsylvania, Ohio, Rhode Island, and Connecticut. I might also suggest consideration be given to programs already put forward within this state, such as financial aid to parents of elementary and secondary pupils similar to the scholar incentive program for higher education.

We know full well that no matter what program you consider or propose, there will be those who will raise a Church-State question. It is an issue that must be faced, but faced realistically. The Supreme Court of the United States, as well as our own New York State Court of Appeals, have provided principles and guide-lines in their decisions on the recent Allen Textbook Case. Other states with constitutional limitations similar to our Article XI, Section 3, the so-called Blaine Amendment, have been facing this issue head on in finding solutions. Your position of educational leadership in New York State, which has always been in the forefront of educational achievement, expects the same from you.

ANOTHER ASPECT
OF THE
FINANCIAL CRISIS IN EDUCATION

The Current Problem of Support
For the Education of
Catholic Elementary and Secondary School Children

New York State Council
of
Catholic School Superintendents

September 3, 1969

INTRODUCTION

This Report consists of two parts. The first reviews various facets of Catholic education at the elementary and secondary grade levels in New York State. Each in its own way has some bearing on the mounting financial problems of this sector of American education. The second part presents some remedies toward solving, or at least alleviating, this fiscal crisis which has implications for all of education.

Particular note should be taken of the responsibility of government in this situation. It must equitably assure the proper education of all children while preserving a viable exercise of the parental right of freedom of choice. It must also safeguard to the highest extent possible the financial benefit to the taxpayer which the supporters of Catholic education have voluntarily contributed for so many years by maintaining such a significant number of non-public schools. Economic foresight urges immediate and effective action by civic and government leaders.

We are releasing this report at this time in order that all concerned with the current financial problems of the public schools in this State may realize that those difficulties cannot be resolved without also responding to the needs of three-quarters of a million Catholic school children beset by the very same crisis.

New York State Council
of
Catholic School Superintendents

MEMORANDUM

The Board of Directors of the Corporation has considered the report of the Committee on the proposed amendment to the Charter of the Corporation, and has resolved to recommend to the stockholders the adoption of the same. The Committee has also recommended that the Board of Directors be authorized to execute all such documents and to do all such acts and things as may be necessary or proper to carry out the purposes of the amendment.

The Board of Directors has also resolved to recommend to the stockholders the adoption of the amendment to the Charter of the Corporation, and has authorized the Board of Directors to execute all such documents and to do all such acts and things as may be necessary or proper to carry out the purposes of the amendment.

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Very truly yours,
[Signature]

PART I

Section A: PUPILS

1. Enrollments

Presented immediately below is a chart of the total enrollments reported by the eight dioceses for the past five school years and the present one, 1968-69.

Catholic Elementary and Secondary Enrollments

<u>Dioceses</u>	<u>1963</u>	<u>1964</u>	<u>1965</u>	<u>1966</u>	<u>1967</u>	<u>1968</u>
Albany	50,024	49,605	48,209	46,263	45,024	42,845
Brooklyn	219,298	222,452	223,718	221,010	217,366	212,797
Buffalo	100,100	100,565	97,902	95,423	92,133	86,756
New York	221,021	222,328	221,615	220,026	215,627	209,210
Ogdensburg	16,390	16,262	15,635	14,667	13,891	12,833
Rochester	57,147	57,159	55,946	54,286	51,661	47,973
Rockville Centre	85,795	88,046	88,792	91,325	91,057	88,810
Syracuse	41,840	42,023	41,551	40,848	39,337	38,692
TOTALS	791,615	798,440	793,368	783,848	766,066	739,916
CHANGE						
Numerical -		+6,825	-5,072	-9,520	-17,782	-26,150
Percentage -		+0.86%	-0.63%	-1.19%	-2.26%	-3.41%

2. Major Conclusions

- (a) A trend of declining enrollments is developing.

Given the declining number of religious, rising costs, increasing salaries of both religious and lay personnel, continued reduction of class size by policy, consolidation of schools, no expansion of facilities, and projected school closings, the trend will undoubtedly continue.

- (b) Declining enrollments, distributed state-wide through more than 1,400 elementary and secondary Catholic schools, do not allow for substantial reduction of costs insofar as total school plants have to continue to operate.

- (c) Implications for public schools:

(i) that public schools will be absorbing our transfer pupils with a concomitant increase of costs for public education.

(ii) that non-public schools will not be absorbing any proportionate share of increasing school-age population as in the past; public schools will have to enroll these additional children as well.

(iii) that up till the 1966-67 school year the increasing enrollments of other non-public schools in New York State had offset the decline in ours; for the first time in 1967 the net total enrollments of all non-public elementary and secondary schools showed a decline, repeated again this year.

- (d) Research will have to be undertaken on the degree to which other factors may be contributing to this decline; e.g., parental attitudes, diversification of apostolates in religious communities, recognition of the role of Catholic schools by Church structures and personnel, etc.

PART I

Section B: TEACHERS

That the vast complex of Catholic schools became the inspiring reality it is must be credited in major measure to the dedication and service of thousands of religious men and women. The religious sister has been and is rightfully an honored symbol of the Catholic school.

Special tribute must also be rendered to religious communities as such; much is owed in the development of Catholic education to their initiative.

Recognition must also be given to the sacrifice of those lay teachers, who for decades have chosen this apostolate over the professional rewards of public school service.

The existence and growth of the Catholic schools has been predicated, therefore, on the low cost of personnel. For example, estimated per pupil costs in Catholic elementary schools for the current year, 1968-69, would average from \$150 to \$250. This low per pupil expenditure has been made possible by a high ratio of religious teachers, whose salaries range from \$1,200 to \$2,500, and by lay teacher salary schedules which are well below the public school scale.

The impossibility of a continued low cost-high return program is the more apparent when the following statistics are examined.

1. Decreasing Numbers of Available Religious Teachers

Presented immediately below are statistics for the past five years and the current school year showing the number of full-time religious and clerics staffing elementary and secondary schools in the eight dioceses of this State.

Clerical & Religious Full-Time Staffs

<u>Diocese</u>		<u>1963</u>	<u>1964</u>	<u>1965</u>	<u>1966</u>	<u>1967</u>	<u>1968</u>
Albany	Elem.	826	844	823	795	790	745
	Sec.	381	423	402	429	411	378
	Total	1,207	1,267	1,225	1,224	1,201	1,123
Brooklyn	Elem.	2,729	2,739	2,841	2,607	2,441	2,222
	Sec.	1,182	1,158	1,206	1,163	1,156	1,131
	Total	3,911	3,897	4,047	3,770	3,597	3,353
Buffalo	Elem.	1,387	1,387	1,358	1,337	1,314	1,246
	Sec.	638	632	640	629	624	587
	Total	2,025	2,019	1,998	1,966	1,938	1,833
New York	Elem.	2,743	3,021	2,967	2,908	2,785	2,583
	Sec.	1,586	1,569	1,625	1,599	1,602	1,605
	Total	4,329	4,590	4,592	4,507	4,387	4,188
Ogdensburg	Elem.	317	306	301	300	284	264
	Sec.	117	115	133	99	111	96
	Total	434	421	434	399	395	360
Rochester	Elem.	722	691	731	712	655	601
	Sec.	378	394	396	410	397	394
	Total	1,100	1,085	1,132	1,122	1,052	995
Rockville Centre	Elem.	1,093	1,114	1,169	1,126	1,128	1,016
	Sec.	281	308	314	403	465	516
	Total	1,374	1,422	1,483	1,529	1,593	1,532
Syracuse	Elem.	589	565	650	622	611	594
	Sec.	273	280	288	301	318	308
	Total	862	936	938	923	929	902
TOTALS	Elementary	10,406	10,758	10,845	10,407	10,008	9,271
	# Change		+352	+ 87	-438	-399	-737
	Secondary	4,836	4,879	5,004	5,033	5,084	5,015
	# Change		+ 43	+125	+ 29	+ 51	- 69
	TOTALS	15,242	15,637	15,849	15,440	15,092	14,286
Change #			+395	+212	-409	-348	-806
	%		+2.6%	+1.4%	-2.6%	-2.3%	-5.3%

2. Increasing Numbers of Lay Teachers

Correlated with the decreasing number of religious teachers, particularly Sisters, is the increased number of lay teachers. The increase has been necessary, despite substantially decreasing enrollments, because pupil losses have until now been spread (requiring the continued operation of classroom and plants) and because programs and courses have increased both in specialization and number.

Full-Time Elementary & Secondary Lay Teachers

Diocese		1963	1964	1965	1966	1967	1968
Albany	Elem.	210	214	215	230	289	291
	Sec.	47	71	69	84	96	111
	Total	257	285	284	314	385	402
Brooklyn	Elem.	1,002	1,081	1,245	1,363	1,550	1,799
	Sec.	492	458	568	661	687	709
	Total	1,494	1,629	1,813	2,024	2,237	2,508
Buffalo	Elem.	815	865	912	967	1,019	1,072
	Sec.	288	345	352	384	427	480
	Total	1,103	1,210	1,264	1,351	1,446	1,552
New York	Elem.	1,563	1,914	2,066	2,181	2,312	2,524
	Sec.	730	806	921	984	1,098	1,278
	Total	2,293	2,720	2,987	3,165	3,410	3,802
Schenectady	Elem.	68	79	84	79	90	101
	Sec.	22	26	25	24	28	31
	Total	90	105	109	103	118	132
Rochester	Elem.	451	516	545	592	634	697
	Sec.	124	135	149	155	165	169
	Total	575	651	694	747	799	866
Saratoga Springs	Elem.	595	639	794	868	909	998
	Sec.	117	132	141	174	233	358
	Total	712	771	935	1,042	1,142	1,356
Syracuse	Elem.	158	166	172	202	221	247
	Sec.	63	81	96	117	135	152
	Total	221	247	268	319	356	399
TOTALS	Elementary	4,862	5,474	6,033	6,482	7,024	7,729
	# Change		+612	+559	+449	+542	+705
	Secondary	1,883	2,144	2,321	2,583	2,869	3,288
TOTALS	#Change		+261	+177	+262	+286	+419
	TOTALS	6,745	7,618	8,354	9,065	9,899	11,017
	Change #		+873	+736	+711	+828	+1,124
TOTALS	%		+12.94%	+9.66%	+8.51%	+9.13%	+11.36%

3. Ratio of Religious and Lay

Relating the two previous trends, we note also that the religious-lay ratio of staffing is also changing at an increasing rate.

Lay Teachers as Percentages of Staffs

<u>Diocese</u>		<u>1963</u>	<u>1964</u>	<u>1965</u>	<u>1966</u>	<u>1967</u>	<u>1968</u>
Albany	Elem.	20.3%	20.2%	20.7%	22.4%	26.8%	28.1%
	Sec.	11.0	14.4	14.6	16.4	18.9	22.7
	Total	17.6	18.4	18.8	20.4	24.3	26.4
Brooklyn	Elem.	26.9	28.3	30.5	34.3	38.8	44.7
	Sec.	29.4	32.1	32.0	36.2	37.3	38.5
	Total	27.6	29.5	30.9	34.9	38.3	42.8
Buffalo	Elem.	37.0	38.4	40.2	42.0	43.7	46.2
	Sec.	31.1	35.3	35.5	37.9	40.6	45.0
	Total	35.3	37.5	38.7	37.7	42.7	45.8
New York	Elem.	36.3	38.8	41.0	42.9	45.4	49.4
	Sec.	31.5	33.9	36.2	38.1	40.7	44.3
	Total	34.6	37.2	39.4	41.3	43.7	47.6
Ogdensburg	Elem.	17.7	20.5	21.8	20.8	24.1	27.7
	Sec.	15.8	18.4	15.8	19.5	20.1	24.4
	Total	17.2	20.0	20.1	20.5	23.0	26.8
Rochester	Elem.	38.4	42.8	42.5	45.4	49.2	53.7
	Sec.	24.7	25.5	27.3	27.4	29.4	30.0
	Total	34.3	37.5	38.0	40.0	43.2	46.5
Rockville Centre	Elem.	35.2	36.5	40.4	43.5	44.6	49.5
	Sec.	29.4	30.0	31.0	30.2	33.4	41.0
	Total	34.1	35.2	38.7	40.5	41.8	47.0
Syracuse	Elem.	21.2	20.2	20.9	24.5	26.6	29.4
	Sec.	18.8	22.4	25.0	28.0	29.8	33.0
	Total	20.4	20.9	22.2	25.7	27.7	30.7
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TOTALS	Elementary	31.8%	33.7%	35.7%	38.4%	41.2%	45.5%
	Secondary	28.0%	30.5%	31.7%	33.9%	36.1%	39.6%
	TOTALS	30.7%	32.8%	34.5%	37.0%	39.6%	43.5%

4. Conclusions

1. A state-wide decrease of some 5.3% religious in the current school year against last year's 2.3% and the previous year's 2.6% indicates that a downward trend is developing in the number of religious staffing the schools.

This conclusion can also be verified by projected closings of some schools at the end of this school year because of withdrawal of personnel by religious communities and by reported probabilities of those leaving religious life. No evidence to the contrary is currently available which would indicate either increase or stabilization in the number of religious teachers for the foreseeable future.

2. The correlative increase in lay staffing follows conclusively from the prior point as well as from the apparent trend. Between the 1963 and 1968 school years religious staffing declined by some 956 teachers or 6.3% (from 15,242 to 14,286); in that same period lay teachers increased 4,272, up 63.3% (from 6,745 to 11,017).
3. At present rates, within one or two years the majority of staff members will be lay for state-wide totals and for several individual dioceses.
4. Since personnel costs are the major item in schools' operational budgets, costs will increase each year at a drastic rate. This will be caused not simply by the increase of lay teachers replacing religious, but also by increasing salary levels for both religious and lay. This increase is definitely foreseeable for a number of reasons: decline in the numbers of religious has impact on religious community income and substantial salary increases for religious teachers are now being sought; we will have to enter more into the general market of teachers and will, therefore, have to become more competitive in salary schedules; cost of living increases (4.7% in 1968 alone) will push salary needs higher; and the current turmoil in ranks of professional education (salary demands and strikes; collective bargaining, and growth of power of teacher organizations) are already or will soon be affecting Catholic schools.

PART I

Section C: PARENTS OF CATHOLIC SCHOOL PUPILS, CATHOLIC LAITY, AND GENERAL PUBLIC

1. Parents of Catholic School Pupils

The major question at the present time relative to parents appears to be their general attitude toward Catholic schools.

Instances of attempted school closings in some areas have resulted in parental protests, willingness to increase financial support, and acceptances of total staffing by lay teachers.

Consensus among the dioceses on this point indicates:

- (a) Parents, in general want Catholic schools to continue; their commitment to Catholic schools is still operative.

This conclusion has been verified by the limited research undertaken on parental attitude toward Catholic schools; e.g. the attitudinal survey undertaken in the Archdiocese of Indianapolis and the Dioceses of Evansville and Louisville by the Catholic Education Research Center at Boston College.

- (b) Parents are not significantly aware, in general, of the critically increasing problem of financial and personnel resources.
- (c) Until now, parents generally have not been involved in the decision-making process affecting the operation of the schools. Hence, they have not felt responsibility for seeking solutions for the schools' economic problems.
- (d) Reasons for parents withdrawing children are so varied that no common significant pattern of parental attitudes emerges. Major reductions in enrollments appear to be caused by increasing tuition costs, reduction in class sizes and mobility of population. No significant evidence is now available on the degree or extent to which other factors might be operative: attractiveness of public school "extras"; increase of lay teachers; loss of confidence in the future of Catholic schools; need for special services available in public schools; and lack of understanding of the "uniqueness" of Catholic schools.

2. Catholic Laity

The laity continue to contribute to the support of Catholic schools via their parish weekly donations.

This tacit approval in the continuance of a standard practice does not imply a positive attitude. Despite rising costs, contributions have continued at a stable rate; i.e., contributions tend to remain the same or vary only slightly despite significant changes upward in per capita income and downward in purchasing value of the dollar.

In general, this type of giving is relatively detached and unconcerned with the use of the funds.

Attempts to induce greater support from the laity have not significantly raised the level of support. This is understandably in the light of continually rising taxes and costs of living.

3. General Public

Both the consensus of the Council members and a survey of public opinion on Catholic schools conducted in New York State verify that the general attitudes of the public toward Catholic schools may be described as follows:

- (a) Non-Catholics do not feel very familiar with Catholic schools. They lack an understanding of Catholic schools as truly educational institutions, seeing them rather as doing a good job of instilling spiritual values, satisfying parents on religious education, and providing effective discipline.
- (b) Those who tend toward strong opposition to Catholic schools are a relatively small minority and do so by associating or transferring their feelings toward the Catholic Church to the schools.
- (c) The general public is quite vague in its concept of the proportionate size of non-public education in New York State. People tend, therefore, to be significantly unaware of the economic importance of non-public schools for educational cost savings to the taxpayer.
- (d) A vast majority of the public endorses the basic principle of having religiously affiliated schools along with public schools. They recognize the essential need of pluralism and the right of an operable freedom of choice in education.
- (e) A significant portion of the general public would be in favor of some type of state aid to non-public school pupils. Given better knowledge of these schools, of the extent of their current fiscal crisis and the impact on parents, and of the economic implications in their decline for the costs of public education, the ratio in favor of assistance would increase substantially.

The public image of our schools and the public's understanding of them and their significance still needs clarification and improvement.

PART I

Section D: CHURCH STRUCTURES

1. Diocese

Statements by the Bishops both nationally and within the State have reaffirmed their belief and support of Catholic schools as a legitimate and effective apostolate of the Church in the temporal and spiritual concerns of this era.

In general, therefore, the Bishops of the State:

- (a) Are committed to Catholic schools at the elementary and secondary levels.
- (b) Endorse the need for research and experimentation in order to make such schools more effective educationally.

- (c) Endorse the need for coordination of efforts in the total field of religious education.
- (d) Are studying changes in administrative structures, consonant with their own responsibilities, which would contribute to the resolution of some of the difficulties currently facing the schools and the dioceses.

2. Parishes

General observations on present relationships of schools to the parishes:

- (a) The parish elementary schools each year are using up a proportionately greater share of ordinary parish income, which is remaining stable while school costs increase.
- (b) There is need for more information on the actual cost of Catholic school operation. Present estimates vary widely depending on the cost factors considered.
- (c) Pastors are finding it more difficult to recruit and retain religious teachers for staffing schools.
- (d) Teachers' salaries are a source of increasing concern.
- (e) New parishes are not opening schools or are doing so with reluctance because of the prospect of enormous costs.

General Conclusion:

The relationship of school to parish calls for redefinition, both to strengthen the school's role in contributing to the effective operation of the total parish and to reaffirm the image of the school as an effective instrument in promoting the moral and spiritual welfare of both the civic and parish community.

3. Religious Communities

- (a) Teaching sisters, brothers and priests in the majority (estimates run as high as 75%) are still committed to the educational apostolate, and to school work in particular.
- (b) Their level of professional ability and training is increasing through more selective admission-screening procedures and improved programs of preparation and religious formation.
- (c) Desirous of excellence in their school work, some are experiencing frustration and somewhat low morale, since they find the present system not conducive to such attainment. There is often a lack of opportunity to exercise professional responsibilities in accord with their training. Furthermore, financial pressures are curtailing the range of effective programs and services available to them in meeting the needs of individual children.

Section E: FINANCES

Contrary to some popular impressions, the financial operations of Catholic schools are not centrally controlled. Too often people view the church as some type of corporate operation similar to a General Motors or a U. S. Steel in its financial management; they then transfer that image to the schools as if they were systematized in the same fashion as those of a public school district.

By way of background to this section, the following details on the financial aspects of Catholic elementary and secondary school operation should be understood.

- a. Catholic elementary schools and most secondary schools have traditionally been the financial responsibility of the local unit; i.e., of the parish or of the school itself.
- b. With this long-established practice of local financing and management, in past years it was not necessary to develop centralized procedures.
- c. The absence of a broad-scale collection of cost data made it difficult in recent years to forecast or assess directly the growth of the financial squeeze on school operations. Growing individual instances, however, is now developing cumulative evidence which spells general financial crisis in bold and unequivocal terms.
- d. Within the past two years three dioceses have initiated uniform reporting procedures on school operations, and the others are instituting or preparing for such at the present moment.
- e. Some dioceses have already initiated studies on the school costs data that are available to them. One, the Archdiocese of New York, has undertaken this on a major scale as part of its research for its blue-ribbon Committee on Education.
- f. Some dioceses sponsor diocesan high schools. Administered as a system, these do allow for coordinated fiscal analysis. Charging tuition, they are financed by additional subsidies of assessments against parish units or by special appeals for additional funds to meet operational deficits. Capital expenditures and debt service are also covered by the latter two methods and by special fund-raising drives. In all of these methods, the burden of system costs is shared by all the laity, again at the local level.

In summary, therefore, two points must necessarily be understood: (1) the de-centralized system of Catholic education does not make immediately available or easily retrievable complete, broad-scale data on our schools' financial operations at the present time, (2) with the custom of local control

and local financing, the schools, whether of the parish or of the diocese, are supported totally by the laity on a year-by-year basis through tuitions, weekly donations, special collections for assessments, and fund-raising campaigns. The current fiscal crisis, therefore, is essentially that of the laity and, more so, of the parents of children in Catholic schools.

1. Instances of Cumulative Evidence of Financial Crisis

- a. Where there is some degree of centralized fiscal management, as with diocesan secondary schools, reports indicate mounting deficits and net losses despite catapulting tuitions.
- (1) Though continually increasing secondary tuition rates from \$50 to a current level of \$600 (up 600%), the Diocese of Brooklyn had a \$1,700,000 deficit for 1967-68 and \$2,517,149 for 1968-69.
 - (2) For the high schools in the Diocese of Syracuse operating deficits rose from \$138,000 in 1964-65 to \$596,000 in 1968-69, over 400% in just five years.
 - (3) After five straight years of raising tuitions from \$90 to \$250 the Diocese of Buffalo will increase it again for 1969-70 to \$350 to ward off a predicted net loss (after all tuition and subsidies) of \$1,400,000 for its twenty-one high schools.
 - (4) The four large diocesan high schools of Rockville Centre had an estimated cash deficit of some \$897,000 for 1968-69. For the coming year tuitions will be increased from \$250 to \$300; presuming no decline in enrollments the deficit is expected at a minimum of \$600,000.
 - (5) For its twelve high schools with over 14,000 pupils the Archdiocese of New York incurred a 1968-69 deficit of some \$2,160,000.
- b. In local parish elementary schools and in private Catholic schools (those operated and financed by religious communities), the picture is the same.
- (1) In one parish operating a school for grades K through 12, cost increased from 1961 (828 pupils) to 1968-69 (595 pupils) by 149.8% (from \$57,177.18 to \$127,946.38). At the same time its total income went up in the same period only some 54.8%. The school will not open in September 1969.
 - (2) In all of the elementary parochial schools of the Diocese of Rochester lay teacher costs jumped 24% in one year with only a 7% increase in number between 1967-68 and 1968-69.
 - (3) A private high school in a relatively sound economic area experienced two successive years of losses of \$30,000 and the \$45,000. These were offset each time only by special activities.

and support by parents and friends. It is now operating on a year-to-year review to remain open or close; the school enrolls 575 pupils in grades 9-12.

- (4) The Committee on Education for the Archdiocese of New York reported that the elementary schools of the Archdiocese will be \$30 million in the red by 1972. Cash operating costs per pupil jumped from \$55 in 1958 to \$156 in 1968 and are projected to be somewhere between \$179-\$238 by 1970, between \$256-\$379 by 1972. These costs exclude contributed services, depreciation, and other non-cash costs. Including the latter, the real per pupil costs for 1968 would be \$396.
- (5) An accounting firm's financial analysis of another private high school reveals four straight years of operating losses. Previously covered by cash reserves the school was finally forced to borrow \$30,000 to meet its 1967-68 loss and maintain operations in order to open for 1968-69. With a tuition increase from \$200 to \$300 in September 1968, enrollments declined from 666 to 578. Repayment of loan, increased costs, and drop in projected possible revenues has resulted in another net loss and forced the school to obtain another bank loan, this time higher, to complete its school year. Its officials are now reviewing its continuance of operations, though only thirteen years of existence.

2. Conclusions

- a. Just as vulnerable to rising costs and inflationary effects on income purchasing power, Catholic schools are experiencing financial difficulties similar to the public schools. Indeed, public school expenditures have a real relation to non-public education; the teacher wage spiral in public education has a direct effect on our own wage scales which attempt to maintain a just and reasonable proximity to theirs.
- b. Likewise affected by inflation and higher costs, the Catholic parent and laity are more than ever experiencing real difficulty in supporting both public schools through rising taxes and their own schools through tuitions and voluntary contributions. Declining enrollments after substantial tuition increases as well as the slowing down of any increase of contributions in recent years point to "the well going dry."
- c. Supported by tuition and voluntary contributions, the financial crisis of Catholic education is much more serious and far-reaching in its possible effects than the public schools' whose existence and income are legally maintained and reinforced.
- d. Continued operation of the schools anywhere near present levels of enrollments and staffing will prove economically impossible for parents and laity within one to two years without government financial aid.

- e. Discontinuance of Catholic schools on any major scale will compound public school financial problems by greatly increased costs. For the necessary additional income, taxes will have to be raised drastically.

PART II

RESPONSE TO THE FISCAL CRISIS

Of major and immediate importance is the present fiscal crisis of Catholic elementary and secondary education. Its immediacy of need is reinforced by the fact that delay would only aggravate the problem and make any solution that much more difficult and costly.

The present situation warrants, indeed requires, that the total method of financing education for children in Catholic schools be re-designed. Three major approaches should be taken.

1. Internal Procedures

- (a) We recommend that our schools and their respective dioceses institute as soon as possible a state-wide uniform accounting system toward more effective use of the financial resources already available to the schools. We urge the institution of such procedures in order that a more accurate picture may be obtained of the fiscal state of the schools.

We urge that all schools be required to prepare an annual budget and a three-year projection of costs and income. We suggest centralized purchasing procedures in those dioceses where this practice has not been instituted and, according to circumstances within individual dioceses, centralized financing so that the total available resources for education in a diocese may equitably serve the total needs of all children.

- (b) Without projecting ourselves into the much larger field of the total financial concerns of the Church in all its various activities, we feel strongly that we must establish in the minds of our Catholic people and the general public the credibility of two points: the actuality of our financial need in education and the inadequacy of our own financial resources to meet those needs.

The processes we have recommended above will go far in assisting to establish both these points.

We recommend that the principle of financial accountability in school operations be endorsed by parishes and dioceses. We believe that financial accountability will show that the financial needs of our schools are real, that the dioceses and individual parishes have extended themselves for education while carrying a variety of charitable and social welfare works.

2. Responsibility of the Laity

The history of the Catholic schools in this state stands as an irrefutable testament to the generosity and sacrifice of the Catholic people. Adults of this era attest time and again to the sacrifices made by their parents in days of less affluence to send their children to Catholic schools. We are certain that, were Catholic schools in America to cease tomorrow, the record of their phenomenal growth would have to be recorded as one of the most outstanding accomplishments in the history of education, be it of this state or of the nation.

But as our parents and their parents and the total laity responded to the needs of the schools and the Church in their times, the challenge, or rather the appeal, must now be presented to all the people of God in this day to respond to the needs of today.

Given the need for the continuation of our schools, two responsibilities must be assumed by the laity:

- (a) All of the laity must recognize that Catholic education in all its variant forms, including the elementary and secondary schools, requires their support. In unequivocal terms we now call upon them in this era not only to continue, but even to increase their financial support of Catholic education. And we say this in full knowledge of all the economic demands of our age. The Church and its schools are now in need of support and assistance; we turn to our laity, confident that they will respond if they are aware of the need.
- (b) Parents of children in our schools have a special obligation. They bear a responsibility for the education of their children; indeed they have the primary responsibility to see to it that their children receive an education which will fit them to develop their full potential for this world and the next.

In accord with this obligation we recommend that in each diocese a stated policy on tuition be instituted. We recognize that for many years the Church has felt that support of the schools was the responsibility of all Catholics, whether parents of school-age children or not. We do not deny the continued applicability of such a principle, but we urge that parents who may reasonably afford it participate more concretely in the fulfillment of their responsibility for the proper education of their children by paying tuition according to their means.

3. Governmental Support

With the knowledge of the extent to which the Catholic laity have extended themselves in support of both Catholic schools and public education and with the knowledge that even increased support from them will not adequately meet the needs of the schools, we believe that parents must now turn to the State and Federal governments for assistance. They can do so without hesitation and with full understanding of the limitations imposed by our principle of separation of Church and State. For they recognize, the contributions which our schools render to the social, economic, moral, and democratic life of our country.

Despite opinions to the contrary, research has established that Catholic education, rather than being divisive, contributes no less to the social well-being of communities than the public schools.

The significance of Catholic education to the economic well-being of New York State can be simply stated. Three-quarters of a million children in Catholic schools saved this State and its taxpayers approximately \$750,000,000 in operational expenditures this year alone. If we were to add a capital investment in additional facilities, school district indebtedness would have to be increased by substantially more than two billion dollars. If the present trend of declining enrollments in Catholic schools were hastened by a policy of closing schools, there would be disastrous consequences for hundreds of school districts.

Public school authorities are deeply concerned about the effectiveness of their institutions in the teaching of moral and spiritual values. This is not intended to demean the efforts of public school educators, for whom we have the highest respect for their dedication to the children of this State. Nor is it meant to imply that some public institutions are not extending themselves to educate their pupils to the moral obligations which the preservation of the blessings of this country requires of them. We do state that, given the current sense of values of society in general, given the wide range of problems facing public education in the moral sphere of rightful authority, reasonable freedom, personal and community health and safety, and social responsibilities, the need of present-day society for men and women educated theocentrically, committed to moral and spiritual values based upon a religiously-supported philosophy of life, is without parallel in our history.

The absence of our schools from the American education scene would leave us with a monolith where "freedom of choice" in a democratic society would be destroyed because the opportunity to exercise that right would be non-existent. Recognition should be given to the contribution of sound and effective non-public schools to principles long recognized as essential to our democratic way of life: pluralism, competition, and, above all, the freedom and rights of the individual.

We firmly believe that the preservation of good non-public schools, sectarian and secular, is in the best interests of our American way of life. Fully aware of the legal questions and of the solutions possible through the interpretations of the courts of both our State and our nation, we call upon our State government in both its executive and legislative branches to effect the following proposals:

- (a) To recognize that Catholic education, even if supported to a yet greater degree by laity and parents of children in the schools, cannot continue for much longer without governmental assistance in a significant manner.
- (b) To accept our sincerity when we say that:
 - (1) No funds are sought for religious purposes, since we fully accept the First Amendment of the Federal constitution. Therefore, all safeguards must be used to prohibit the use of public funds for specifically religious purposes or for any program of religious

instruction in the tenents or doctrine of our faith of any other.

- (2) We support, and indeed demand, not only the preservation of sound public schools, but the development of methods whereby assistance to non-public schools will not diminish State assistance to public schools, but rather reinforce it. We cannot accept arguments that assistance to the education of children in non-public schools will harm public schools; rather in the present fiscal crisis of public education we see viable, non-public schools as a remedy for the increasing costs of public schools. If the Catholic schools in one of the twelve largest urban areas of the State were to close, public education would suffer disastrous effects. Why then is not the converse also true? Public school costs are rising not simply because of increased costs of living and legally mandated increments; but because non-public schools are no longer absorbing even a proportionate share of the increasing school-age population.

Between June and September 1968 Catholic elementary and secondary school enrollments in New York State declined by over twenty-six thousand, in terms of per pupil costs (at \$1,140) this decline added some \$29.5 million to public school budgets. And this occurred when all school enrollments were projected to increase by some seventy-five thousand pupils. If the non-public schools had absorbed even ten percent of that increase, the cost to public schools due to enrollment growth would have been about \$77 million. Instead, including the decline of Catholic school enrollments adding \$29.5 million (transfer pupils are unlikely to go to other private schools), public schools had to assume their own share of increase in enrollments (\$77 million) plus the share of non-public schools (\$8.5 million) for a total of some \$115 million! This represents a \$38 million tax problem for New Yorkers this year!

And what about next year or the year after if current Catholic school enrollment trends continue, or if a policy of cut-back is instituted in any diocese?

- (c) To institute a program of financial assistance for pupils in elementary and secondary non-public schools in those fields wherein the schools meet the legal requirements of instruction and services.
- (1) We urge that this assistance be rendered toward those elements of a child's education which are recognizably secular and contributive to the common good.

- (2) We recognize the legitimate right and responsibility of the State to insure that such assistance shall be rendered only where specified standards of quality education are met and where the institution must render full accountability that the funds were expended solely for the purposes specified.

While we acknowledge the benefits to our pupils of the supplementary services already provided by the State in the forms of transportation, textbooks, and limited health services, we must also indicate that these are not serving the critical needs of the educational process of these children. Indeed our assistance to local public school agencies in providing for the administration of these programs, especially the Textbook Act, has actually been a cost to Catholic education in both financial and personnel resources.

- (d) To consider seriously the following forms of financial assistance to non-public school pupils and to institute them without delay.

- (1) Some type of non-public educational legislation which would:

- guarantee to parents a freedom of choice consonant with the State's responsibility in education.
- provide fiscal relief for parents and pupils in non-public elementary and secondary schools, adequate to meet their mounting financial problems, in the provision of secular education.
- take effect for the 1970-71 school year.
- permit the use of such funds toward any legally required instructional programs and services.
- provide for State supervision and school accountability within the recognized rights and responsibilities of both.
- be designed so as to take into consideration the economic needs and status of the community and families of the children served by the schools.
- assure equality of education for all.

- (2) Immediate Enactment of Legislation which would permit the State Education Department to include the participation of non-public school pupils in services and benefits of the Urban Education Program.

- (a) Since Catholic education is more committed proportionately to urban schools than is public education (55 percent of our enrollments are in the major urban centers vs. 47 percent of public schools), it is unreasonable and discriminatory on the part of the State to restrict children who meet the qualifications for State assistance from participation by reason of the school they attend.
- (b) Furthermore, in view of the precedent established by the federal government in the provisions of the Elementary and Secondary Education Act of 1965 and its subsequent amendments, we challenge as prejudicial and unjust the State's rigid interpretation of Article XI, Section 3. The State's Court of Appeals by reversing the Judd decision in its majority opinion for the Textbook case has provided ample grounds for validating the inclusion of non-public school children in the services of the Urban Education Program.
- (3) The establishment of a permanent Commission for Non-public Education which would:
 - (a) evaluate the needs of the non-public education of children for financial assistance from the State;
 - (b) supervise the provision of such financial assistance to qualified institutions;
 - (c) supervise the expenditure of such funds;
 - (d) in general, oversee the rights of non-public education in relation to the State and the rights of the State in relation to the private institution.

It should be noted that such a Commission would not replace the educational authority of the Board of Regents or the State Education Department. Its responsibilities would be limited to determination of legitimate financial needs and to proper fulfillment of legal requirements in the expenditure of State funds.

It is recommended that this Commission function under the authority of the Board of Regents, but not within the present structure of the State Education Department. The State Education Department has primary responsibility toward the financial welfare of public education in the use of State funds. It would be ambivalent to require the State Education Department to assess the needs of both segments of education in this State for presentation of budget requirements to the

legislature. Such a presentation would expose itself to assisting one segment at the expense of the other. Both should be considered independently, and neither should fear that the provision of services might have to suffer were the needs of others to be included.

Private Schools

Need Public Funds, Arian Says

TIMES-UNION *

Albany, Sat., Oct. 4, 1969 5

EDITOR'S NOTE: The plight of the private school, particularly the parochial school, has been a prime subject for discussion in recent weeks. Many Catholic schools face closing if some kind of outside support is not forthcoming. How serious are other church-operated day schools finding the problem and what are they doing to meet it. This is the first of a series of articles aimed at finding the answer. Another article will appear on next Saturday's Church Page.

By MEL GONICK

The American Dream has become so twisted that the right of education for all now apparently means only education in

education for their children even if they strongly desire it and feel that it more of a necessity than a luxury.

Some type of public support for families of those attending parochial and other specialized private schools is necessary if the American Dream is to be realized, the Hebrew Academy administrator believes.

He also personally feels that some kind of pooling of facilities might help these hard-pressed schools obtain the more sophisticated equipment and teaching tools necessary to provide a well-rounded education.

This pooling could first be attempted among the private

education. Only the primary grades were covered in the first years, but the school now includes Kindergarten through Grade 8.

While enrollment, 19 students the first year, has now increased to 135 this year, the budget has kept pace and is now at six times that of seven years ago.

Tuition is the main source of support for the school, with a few fund-raising events scattered throughout the school year.

There is some discussion under way in regard to establishing an endowment fund because the academy is looking forward to the day that it can move into

public schools, and "this is not fair," says Phil Arian, principal and one of the founders of the Hebrew Academy of the Capital District.

The Albany educator says a family should not be punished financially just because the parents want their children to receive a religious and cultural, as well as academic, education.

Sometimes the public does not realize that religious groups do not want to go to the public till, Mr. Arian said, and are perfectly willing to support their own schools as well as possible.

However, he adds, private education (parochial or not) is expensive and many parents are sorely-pressed to provide such

schools themselves to show the way, he adds, and then eventually take in public schools facility-sharing as well.

Tuition at the Hebrew Academy is approximately \$750 per year, including books, and even with scholarships offered to many students, almost all families sending youngsters to the school pay at least \$300 a year.

"And many of these people are not rich, some not even middle class," Arian says, "but they want their children to have the bi-cultural (Western-Hebraic) education we offer."

The Hebrew Academy of the Capital District was first organized about eight years ago and is now in its seventh year of op-

its own building and extend its program through the high school years.

The academy presently rents quarters from Temple Israel, 600 New Scotland Avenue, and this provides for both added expense as well as crowded conditions which prevent both needed and hoped-for expansion.

Mr. Arian believes that religious denominations are willing and able to accept the challenge of providing top grade education, but if the American Dream of equal opportunity for all is to be realized, some public support of the students and their families must materialize.

Mr. Arian summed it up very simply, "It's a real problem."

Private Schools Need Public Funds

Asian Says

Private schools in the United States are facing a serious financial crisis, according to a report by a leading education expert. The report, which was published in a recent issue of the *Education Week* journal, states that private schools are losing money at an alarming rate. The author of the report, a prominent education researcher, argues that the government should provide more funding for private schools to help them stay afloat. He points out that private schools are often the only source of education for many children, particularly in urban areas. Without government support, he believes, many of these schools will be forced to close, leaving thousands of children without a place to go to school. The report also notes that private schools are often more expensive than public schools, which makes them inaccessible to many families. By providing additional funding, the government could help to level the playing field and ensure that all children have access to a quality education.

The report further details the financial struggles of private schools, noting that many are struggling to pay their teachers and maintain their facilities. It also discusses the impact of declining enrollment on the schools' ability to generate revenue. The author calls for a comprehensive study of the private school sector to determine the extent of the problem and to develop effective solutions. He suggests that the government should consider a variety of options, including direct funding, tax breaks, and grants. The report concludes by emphasizing the importance of private schools in the American education system and the need for government action to support them.

City's Private Schools Flourish but Sense Demand for Change

By MICHAEL STERN

New York's private schools began the new year last week with their 26,000 seats filled and with many times that number of applicants knocking vainly at their doors.

But despite the extraordinarily strong demand for their services, the schools also are beginning the year with anxieties over their future, their ability to meet new challenges and their proper role as privileged institutions in a rapidly changing urban society.

"In one sense, we've never had it so good," said Carl W. Andrews Jr., headmaster of the tradition-rich Collegiate School, 241 West 77th Street. "For the foreseeable future, none of us will have any trouble filling our registers. But in another, more realistic sense, we've never had such problems."

Schools' Concerns Told

As the ringing of bells and the chatter of high, piping voices echoed again in their classrooms and corridors, Mr. Andrews and other private school heads closed the doors to their book-lined studies and, in interviews, listed these concerns:

Rising costs and their consequence, tuition increases averaging as high as 45 per cent in some schools this year.

The difficulty of finding and holding good teachers, made more difficult by the good pay contracts that public school teachers have been winning.

The fear that any expansion of private school enrollment will further weaken the troubled public schools by drawing away strong pupils and interested parents.

The difficulty of evolving new programs to satisfy student demands for more responsibility and more relevance.

The need to raise large scholarship funds to recruit the children of the poor and thereby end the one-class character of private-school enrollments.

But along with this account-

ing of troubles, the headmasters and headmistresses also spoke with pride and enthusiasm about forward-looking programs they are developing.

At the Chapin School, Mrs. Charles G. Berendsen spoke of the year-by-year enrichment of courses and of the school's success in introducing college-level work in the junior and senior high school years.

At the New Lincoln School, Dr. Harold C. Haizlit said upper-school students this year would do five days' work in four to free Wednesdays for seminars, community work, filmmaking, playwriting and other independent projects.

At Columbia Grammar School, James W. Stern told of a new trimester system being introduced this year, which allows students a much wider choice of electives and the chance to make up a failed course immediately instead of waiting until next year.

At Collegiate where the three-part year also is being introduced, Mr. Andrews saluted the generosity of parents and alumni, which is making possible full or partial scholarship aid to one third of the school's 512 boys.

All spoke of the new kinds of demands being made by their pupils. Addressing herself to this phenomenon, Mrs. Berendsen said:

"Independent thought in the teen years did not begin in the nineteen-sixties. Young people always have challenged the ideas of their parents. What is different now is that the children are less docile. Parents raise them that way and I think it is all to the good."

Earlier Responsibility

Acknowledging that educating less docile children is more difficult—and also more challenging—Mrs. Berendsen said that "what we have to do is let responsibility come to them sooner." At Chapin, this takes the form of a wide variety of late afternoon and Saturday

work with the poor in Yorkville and in Harlem.

It also takes the form of eliminating competition between girls—there is no honor roll, there are no prizes at graduation, at Chapin—but encouraging each girl to accept the responsibility of competing against herself to fully develop her own talents.

"One of the advantages of being small is that no one is anonymous here," Mrs. Berendsen said. "If a girl isn't doing her work, we know very quickly."

The radically changed school week at New Lincoln is the result of a year's work and study by the faculty, followed by a submission to the students, who made many criticisms and succeeded in making many changes.

"When I came here last year," Dr. Haizlit said, "I began asking why we were doing some things one way and others another. We found that although more than 80 per cent of the students' time is given to courses required by college admissions officers, the content of those courses and how they are taught is pretty much up to the school."

Students Plan Projects

Now, Dr. Haizlit said, teachers are excited by the prospect of doing innovative work, the students are planning many kinds of projects and the entire school, which was established as an experimental institution but recently had not been doing much experimentation, has developed a new spirit.

"This is just a beginning," the director said. "We intend to re-examine our program and our goals constantly. The children are changing every year and we have to change with them."

Another kind of change—toward greater cooperation among several private schools—is being discussed at Columbia Grammar.

Mr. Stern, the headmaster,

said that a study commissioned by his school, Baldwin, Elizabeth Irwin and Walden, showed that they could significantly cut their costs, without sacrificing their independence, by setting up joint programs in purchasing supplies, admitting students, hiring specialized teachers, buying food and other activities.

"Many of us don't like the idea of giving up the way we have always done things," Mr. Stern said, "but under the pressure of rising costs we are going to be forced into cooperation. I like the idea myself. It will relieve us of burdens and give us more time to devote to the children."

Doubling of Costs Seen

Some form of cooperation, and the tapping of new sources of money are recommended by Mr. Andrews in a 141-page report he wrote after spending a six-month sabbatical leave visiting 100 private schools in 20 states last spring.

Mr. Andrews found that costs were expected to rise 100 per

cent in the next 10 years and that parents of current pupils, who now supply most of the schools' income through tuition and contributions, would not be able to keep up.

"We could survive by taking in only the children of the rich," Mr. Andrews said, "but that would not be a good education for them and it would not be good for society."

One new source of income could be the private corporations and foundations, which now give large sums to higher education but only 5 per cent of their contributions to secondary schools, Mr. Andrews said.

Another, he said, would be government. Although 30 states now bar aid to non-public schools, Mr. Andrews believes this may change when state legislatures begin to count the cost of letting the parochial school systems fail for lack of money. And if government begins to give aid to the parochial schools, it may also help the independent schools.

**SUMMARY OF
THE EVALUATION OF THE CHICAGO BOARD OF EDUCATION
EXPERIMENT IN SHARED-TIME FROM SEPTEMBER 1965 TO JUNE 1969**

**A Report to the Chicago Board of Education
June 1969**

**James F. Redmond
General Superintendent of Schools**

**Department of Operations Analysis
Eileen C. Stack
Associate Superintendent**

REPORT OF THE
THE NATIONAL BOARD OF EDUCATION
RESEARCH IN CURRICULUM FROM SEPTEMBER 1951 TO JUNE 1953

A REPORT OF THE NATIONAL BOARD OF EDUCATION
JUNE 1954

James P. Heflinger
General Superintendent of Schools

Department of Education
State of New York
Albany, New York

This evaluation study was designed and the report was prepared by Dr. Joan M. Raymond, Coordinator, Department of Operations Analysis.

The study was facilitated through the cooperation and assistance of:

- the administrators who participated in the shared-time program -
 - Dr. Joseph J. Zbornik,
District Superintendent, District 12
 - Miss Dorothy Sauer,
Former Principal Kennedy High School
 - Mr. Alexander W. Burke,
Principal of Kennedy High School
 - Brother Terrence,
Former Principal of St. Paul's High School
 - Brother Raymond,
Principal of St. Paul's High School
 - Sister Dorothy,
Assistant Principal of St. Paul's High School
 - Mr. Samuel Dolnick,
Principal of Von Steuben High School
 - Rabbi Shlomo Rapoport,
Principal of Chicago Jewish Academy
 - Dr. Joseph Dunn,
Assistant Principal of Taft High School
- . the faculty of Kennedy High School
- . the parents of the 1969 shared-time graduates of Kennedy High School
- . the 1969 shared-time graduates of Kennedy High School.

Department of Operations Analysis
Eileen C. Stack
Associate Superintendent

SUMMARY OF
THE EVALUATION OF THE CHICAGO BOARD OF EDUCATION
EXPERIMENT IN SHARED-TIME FROM SEPTEMBER 1965 TO JUNE 1969

The Chicago Board of Education in 1964 and 1965 authorized the participation of three Chicago public high schools in an experimental shared-time program in which students would pursue part of their secondary education under the direction and control of the public school and the remaining portion under the direction and control of a nonpublic school.

The three programs and the dates of their operation were:

John F. Kennedy High School - St. Paul's High School
(September, 1965 - June, 1969)

Frederick W. Von Steuben High School - Chicago Jewish Academy
(September, 1965 - June, 1967)

William H. Taft High School - Luther High School North
(September, 1966 - June, 1968)

The experiment was authorized for a four year period, from September, 1965 to June, 1969, so that it would be possible for a group of students entering the shared-time program in 1965 as freshmen to participate until their graduation in 1969. In the initial planning, it was intended that a fifth year would be used for evaluation purposes, but subsequently it was considered advisable to conduct the evaluation study before the students who participated in the program for four years graduated and before the original authorization period for the program ended in June, 1969.

An evaluation study of the experimental shared-time program was, therefore, conducted between February and May of 1969. Because the Taft-Luther North and the Von Steuben-Chicago Jewish Academy programs remained in operation only two years, emphasis in the evaluation study was placed on the Kennedy-St. Paul program.

The evaluation was designed to explain the operation of the three shared-time programs; to measure objectively, insofar as possible, the effect of the program on the students; and to report the reactions of the parents, students, teachers, and administrators who participated in the program.

Information and reactions were obtained through interviews with the local administrators involved in the three shared-time programs, with all of the students who participated in the Kennedy-St. Paul shared-time program for four years, and with selected members of the Kennedy faculty. In addition, questionnaires were administered to all the members of the Kennedy faculty, to all the seniors who attended Kennedy full-time for four years, to all the seniors who attended Kennedy on a shared-time basis for four years, and to all the parents of the Kennedy students who attended Kennedy on a shared-time basis for four years.

Objective data were obtained through analysis of the permanent records of June 1969 graduates who attended Kennedy on a full-time or on a shared-time basis for four years and of the permanent records of senior students who transferred from the shared-time program to full-time enrollment in Kennedy High School. Information related to the operation of the three programs was obtained through examination of guidelines, correspondence, and records maintained in the three public high schools.

There were many similarities in the three shared-time programs authorized by the Chicago Board of Education. In all three programs the students who participated were required by Board action to reside within the attendance area of the public high school, to be eligible for full-time enrollment in the public high school, and to comply with the same rules and regulations as full-time students. In addition, each of the three programs involved an attendance arrangement between a public and a nonpublic school, the exchange and acceptance of grades and credits from one school by the other, the voluntary participation of students and parents, and the establishment of guidelines by the local administrators.

But, each shared-time program was also unique. The size of the program, the grade levels of the students who participated, the characteristics of the schools involved, the curriculum, and other facets of the program were different from school to school.

St. Paul's High School and John F. Kennedy High School were both new schools at the time the shared-time program was initiated, St. Paul's having been constructed primarily for the shared-time experiment. Neither school had an established faculty, established traditions, or established community allegiances. The shared-time program was implemented as a part of Kennedy's original program and as the entire purpose of St. Paul's program, and it was not necessary to adapt it to existing school programs. More importantly, St. Paul's High School program was not intended to be complete or to graduate students from a four-year program. Its curriculum was limited to two major academic subjects, English and social studies.

In addition, in the Kennedy-St. Paul program, the students were recruited for the shared-time program before their entrance to high school and they enrolled in the public and in the nonpublic school simultaneously; in general, they took two major subjects in the nonpublic school during each of their four years of high school, and these credits were transferred to the public school in which they took the remainder of their work and from which they graduated. In the Taft-Luther North program, the students were already enrolled in the public school on a full-time basis at the time they entered the nonpublic school for one subject, the credit for which was transferred to the public school from which they graduated. In the Von Steuben-Chicago Jewish Academy program, the students were already enrolled in the nonpublic school on a full-time basis at the time they enrolled in the public school for some classes, the credit for which was transferred to the nonpublic school from which they graduated.

The size of the three programs was another difference among them. The Kennedy-St. Paul program was thought to be the largest secondary shared-time program in the country, and national attention was focused on it since its inception. In June, 1969, there were 535 students attending Kennedy High School on a shared-time basis, 132 of them members of the 1969 Kennedy graduating class who had participated in the shared-time program with St. Paul's High School since

their freshman year. This group of 132 was the first group of students to have attended a Chicago public high school and a nonpublic high school, concurrently, for four years.

In contrast, the Taft-Luther High North and the Von Steuben-Chicago Jewish Academy programs were small in size and of short duration. Fourteen students participated in the Taft-Luther High North program for two years and eighteen girls participated in the Von Steuben-Chicago Jewish Academy program for two years.

In the Kennedy-St. Paul program, the students took English, social studies, and religion at St. Paul's, and all other subjects, including physical education, art, and music at Kennedy. In the Taft-Luther High North program, the students took all of their subjects, except social studies at Taft High School. In the Von Steuben-Chicago Jewish Academy, the students took only shorthand and typing at Von Steuben.

In the Kennedy-St. Paul program, the students spent approximately the same amount of time in each school. In the Taft-Luther High North program, the students reported to a Lutheran elementary school ninety minutes before their programs began at Taft for instruction from teachers from Luther High School North in social studies and religion. In the Von Steuben-Chicago Jewish Academy program, the students reported to the public school for two periods during the day and then returned to the Academy for the remainder of their programs.

The three programs provided three unique experiences with shared-time, and the details of their operation are equally significant and are carefully described in the evaluation study. Procedures related to programming, grading, placement, counseling, discipline, subject selection, curriculum, and transferring of credits are related both to the size of the three programs and to the degree to which the public schools were involved in the program.

An important part of the evaluation was an analysis of the impact of the shared-time program on the school performance of students who participated in it. Since Kennedy High School was the only Chicago public high school which was involved in a shared-time program for four years, this part of the evaluation was limited to those students who participated in the Kennedy-St. Paul program throughout their high school careers. Comparative data are provided for students who attended Kennedy High School on a full-time basis for four years.

On the basis of stringent statistical analysis of the data related to the school performance of graduates who attended Kennedy High School on a full-time basis for four years and of graduates who attended Kennedy High School on a shared-time basis for four years, the following summary profile emerged.

Compared with full-time graduates, shared-time graduates, on a group percentage basis:

- . possessed, on the average, greater general ability
- . took more college preparatory courses

- . received higher grades
- . were in fewer honors classes
- . earned about the same grade point averages
- . had similar class ranks
- . were more college oriented
- . received about the same scores on the ACT
(standard test used by most colleges for
admissions purposes)
- . were absent less
- . participated in fewer extra-curricular
activities at Kennedy High School
- . held fewer service jobs at Kennedy High School
- . received fewer honors at Kennedy High School
- . were elected to fewer offices at Kennedy High School

That this profile of the shared-time graduates compared with the full-time graduates of Kennedy High School emerged was, to a large degree, affected by the number of students who withdrew from the full-time group and from the shared-time group and by the ability level of those who withdrew from each group.

Thirty per cent of the students who enrolled in the shared-time program four years ago transferred at some time to Kennedy High School on a full-time basis and another thirteen per cent either dropped out of high school or transferred to another school. The withdrawal rate from the Kennedy full-time group was thirty-three per cent. However, a larger percentage of the lower ability level group withdrew from the shared-time program, and a larger per cent of the higher ability level group withdrew from the full-time group. Pertinent, also, is the fact that the shared-time students who wished to withdraw from the shared-time program had the option of transfer to full-time attendance at Kennedy High School and the full-time students had no transfer choice.

The reactions of the parents, students, teachers, and administrators who participated in the shared-time programs authorized by the Chicago Board of Education were also an important consideration in the evaluation of shared-time. It matters little if the program were administratively feasible and had no harmful effect on students if there were an adverse reaction to it by those who were directly involved in its operation. In fact, participant opinion might be the most crucial factor in the evaluation of the shared-time program.

Since the Kennedy-St. Paul program was the only one in operation in the spring of 1969, it was not possible to obtain the reactions of anyone other than the administrators in the Von Steuben and Taft shared-time programs. It was possible, however, to survey all the participants in the Kennedy-St. Paul program.

In general, the reactions of administrators who participated in the three shared-time programs authorized by the Chicago Board of Education were favorable. Perhaps, of more importance was the fact that their reactions were basically similar although their experiences with shared-time were dissimilar. However, they all related their opinions to their own programs and none indicated that they had experienced any serious difficulty with their shared-time operations.

The parents and students who participated for four years in the Kennedy-St. Paul shared-time program also reacted favorably to it. While there were criticisms and expressions of dissatisfaction by parents and students of certain aspects of the Kennedy-St. Paul program, one student's or parent's cause for complaint was another's reason for remaining in the program. Programming problems and longer days were the two items about which most of the parents and students were concerned, but almost all of them indicated that they would recommend the shared-time program to friends or relatives who are about to begin high school.

The teachers assigned to Kennedy High School were in general agreement that the shared-time program did not create additional work or problems for them. Moreover, they did not observe any harmful effects either to the school or to the students because of the shared-time program.

The evaluation of the shared-time experiment, according to the original charge by the Board of Education, was to determine if the program were in the best interests of the school children of Chicago and not detrimental to the public school system of the city. There was no evidence in the study that the shared-time programs in which the three Chicago public high schools participated had, in any observable, or measurable way, a harmful or detrimental effect on students or on the public school system of the city of Chicago.

It is inappropriate because of the uniqueness of the three shared-time programs to generalize the data and observations contained in the evaluation of the Kennedy-St. Paul, Taft-Luther North, and Von Steuben-Chicago Jewish Academy programs to other shared-time arrangements. This is particularly true in the case of the Kennedy-St. Paul program.

The findings of the evaluation study indicate that from the point of view of the Chicago public schools, the shared-time programs involving Kennedy, Taft, and Von Steuben high schools were administratively feasible and not detrimental to the program of education in the public schools. The programs appear to have provided opportunities for the students who were involved which they might not have had had they attended either the public or the nonpublic school on a full-time basis; any disadvantages which the students may have encountered appear not to have been of a serious nature.

It is recommended, therefore, that the Board of Education authorize the continuation of the Kennedy-St. Paul shared-time program, contingent upon the desire of the appropriate St. Paul's High School authorities to extend the program. It is recommended, also, that the findings of the evaluation be utilized as a basis for planning should additional shared-time programs at the high school level be considered.

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sion from June 4,
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A Roman Catholic Educator's Point of View

NEIL G. McCLUSKEY, S.J.

APPENDIX H

THERE has never really been a Catholic position on public support for parochial schools. Opinion among Catholics has always ranged widely on this as every other controversial issue. There is a wide consensus that children in the parochial schools are entitled to a more equitable distribution of items which fall under the "child benefit" principle. There are leaders and groups firm in their insistence that Catholic school children are entitled to everything received by public school children. There are advocates of tuition plans and tax credit plans. There are Catholic officeholders, politicians and plain citizens who argue against any form of tax support for parochial schools—who argue as vehemently as the most doctrinaire supporter of exclusively public education. And there is a growing number of Catholics who wonder if perhaps the whole concept of separate schools for Catholic children has outlived its usefulness and who think that the future may lie with a third entity—a new kind of publicly supported school structure within which public and private groups can achieve their respective purposes.

A decade ago what Francis Cardinal Spellman (or local bishop) had to say about federal aid—at least in the public eye—the official Catholic position. Now things are different. A critical new ingredient has been added: the role rapidly being assumed by the Catholic laity across the country. What used to be viewed as (and to a large extent still is) a clerically run operation has become something much broader. Hundreds of thousands of Catholic parents in scores of communities are organizing themselves in order to put their case to the public in tones that are clear, strong and lay.

Public Agitation, Public Debate

Much of the impetus toward formal organization is coming from Citizens for Educational Freedom (C.E.F.), a group of parents and other individuals dedicated to the cause of securing freedom and equality in education—to quote its self-description. With over 1,000 chapters located in every state C.E.F. has become a force to be reckoned with. Already it has been instrumental in effecting action at both national and state levels for the benefit of public school children.

Some critics find C.E.F. hard to take. When

C.E.F. works for the election to public office of candidates favorable to bussing for nonpublic school pupils, its critics consider that action sinister, subversive of the democratic process. But when such an organization as Protestants and Other Americans United works for the defeat of those candidates, the same critics consider its action a defense of the nation and of the democratic process.

It is good that social grievances should be aired—if the airing is done in civilized fashion. But it is dangerous if an important segment of society feels itself the victim of social injustice and simmers in aggrieved silence. It would be sad indeed to find one day on American shores that painful Continental phenomenon, the making and unmaking of governments over the issue of support for religious schools. Calling forth as it does such deep-seated loyalties and ancient animosities, this issue is almost as volatile as is that of racial integration. If for no other reason, then, the debate must continue—but always in terms that are calm and restrained.

Contradictory Contentions

Unfortunately the school question has not usually been approached with the responsibility it warrants. Often ignored are the historical complexities and subtleties with which the issue has been bedeviled intermittently since the 1840s. Slogans and clichés are incanted ritually. One faction aims broadside at the other—or, rather, at positions that either were never held or have long since been abandoned or substantially modified. One side triumphantly establishes a case which the other side never hears. The argument goes on loudly and with impeccable logic, but from premises that are miles apart—and the two sides stay miles apart. Members of C.E.F. are deceiving themselves if they think the issue will be settled by a simple appeal to constitutional rights guaranteeing freedom of religion. Nor will P.O.A.U., the American Jewish Congress or the Horace Mann League—all inveterate opponents of public benefits to nonpublic schools—wave the problem away by quoting what they think Madison and Jefferson meant by the "wall of separation" between church and state.

The serious mischief preventing rational discussion is the tendency of legislators and journalists simply to fall back on the metaphor of "the wall" as a substitute for historical analysis and informed discussion. Provided it is not overworked, however,

there is still much to be said for that metaphor. More precisely, the concept is "independence" or "autonomy" rather than "separation."

On the other hand, when absolutism is applied to church-state relations it leads to trouble and contradiction. In his dissent in the landmark 1947 *Everson* (New Jersey) bus case Justice Wiley B. Rutledge was writing what under scrutiny becomes historical fantasy when he argued that the objective of the First amendment was "to create a complete and permanent separation of the sphere of religious activity and civil authority by comprehensively forbidding every form of public aid or support of religion."

For one thing, Mr. Rutledge can't have it both ways. If separation must be complete, permanent and comprehensive, and if a parochial school is simply an extension of the church, one wonders how the state can regulate even something that smacks of secular education in a parochial school, how it can, for instance, require attendance in that school's classroom any more than it can in the church itself.

The question is simple but the answer ignites controversy: Can the state distinguish (this is different from "separate") the secular from the religious in education? Increasingly the answer seems to be Yes. This is precisely the direction in which the child benefit doctrine has developed. As Justice Byron R. White wrote a year ago, ever since the Oregon school case in 1925 "a substantial body of case law has confirmed the power of the states to insist that attendance at private schools, if it is to satisfy state compulsory-attendance laws, be at institutions which provide minimum hours of instruction, employ teachers of specified training, and prescribe subjects of instruction." Because of the state's interest in school standards the courts have ruled that instruction at home does not comply with compulsory education statutes.

The Key Issue: Religious Liberty

The constitutional argument is easily stated: Can church-related schools share in any general provision for government aid to all schools without violating the First amendment? Or is such support forbidden on the ground that it would favor church groups with educational commitments over other groups, church and nonchurch, which lack such commitments? It is not a question of whether religion or a church is helped or hurt by the fact that such benefits are provided in these schools as well as in the regular public schools; it is a question of whether the help or hurt that results is the kind of benefit or detriment forbidden by the First amendment.

Separation of church and state has validity only as a means to an end. In other words, the principle of separation is instrumental and subordinate to an end: religious liberty. Accordingly, the concept of religious freedom will determine how much separa-

tion of church and state does not guarantee freedom of religion; witness the Soviet Union where absolute separation has been decreed and where flagrant persecution of religion has long prevailed.

Back of the refusal of some people to accept the court-approved general welfare benefits for parochial school children (e.g., bus rides and textbooks) is the worry that "child benefit" has no limit other than what the Catholic community feels it can successfully push for. What rouses some non-Catholic opposition is not so much today's bused textbooks as tomorrow's salaries, buildings, and eventually a fully subsidized parochial school system. They see no guarantee that Catholics will curb their demands on the public purse to the social child welfare benefits. For Catholics the only answer is another question: Why should there be a guarantee? They look on the claim to share in general welfare benefits—including education for themselves—not as a raid on the public treasury but as a civil rights matter to be argued in the civic arena.

A New Situation

No, the school question will not be solved simply by applying the old formulas or shouting the old battle cries that held through the 19th and the 20th century. For one thing, the pattern of American education has substantially changed. The sheer dimensions of the nonpublic school system—50 per cent Catholic—make its needs and its concern of others than the groups sponsoring it. This is the first argument in favor of public provision for all schools.

Despite a decline in enrollment through the 1960s, two years there still are 5.2 million pupils in Catholic schools—nearly 11 per cent of the total elementary and secondary school population. But that figure doesn't tell the complete story. In dozens of towns and suburban communities Catholic schools enroll 40, 50 and in some cases as much as 60 per cent of the school population. In Detroit and Cincinnati the figure is 24 per cent; in Philadelphia, 40. The figure for Boston is 35 per cent; for Milwaukee and New Orleans, 30 per cent; for Buffalo and Pittsburgh, 40. Half the children in Green Bay, Wisconsin, and of Manchester, New Hampshire, are in Catholic schools. In many of the country's largest cities, the Catholic school enrolls one-fourth or more of the total school population. Every third school child in New York City and Chicago is enrolled in a Catholic private or parochial school.

When a concerned President tells the American people that our progress as a nation "cannot be swifter than our progress in education," neither the total American community can nor should it ignore the Catholic schools in its

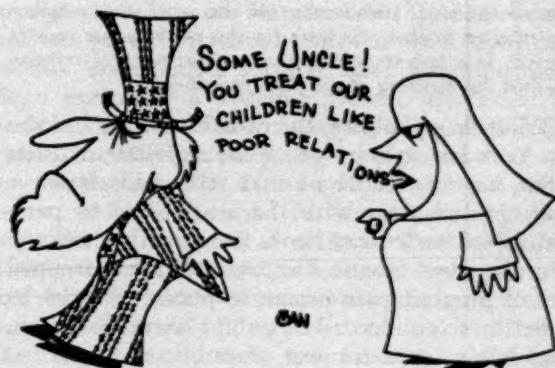
above; the quality of education there can be better than the quality of the Catholic schools within their borders. It is inconceivable that the youthful talent of the nation can be adequately developed without the inclusion of nonpublic schools in government programs designed for that purpose.

Practically speaking, the state has set up what amounts to a religious test: children in Catholic schools would qualify for free schooling and all related benefits the state provides for its junior citizens *except* that their parents have placed them in Catholic schools. If public benefits are so administered that citizens must do violence to their consciences in order to share in them, then the benefits are discriminatory. Perhaps Catholic parents should look at things differently; their feelings of frustration are, however, not assuaged by being told that they are "free" to have their own schools — not as they watch increasing subsidies for public schools steadily pricing Catholic school education out of the market. It may be that this issue is coming home to the American public in a less than idealistic way. The financial picture of parochial school education has been steadily darkening. It is predictable that unless there is immediate public support is forthcoming many parochial schools will be forced to shut their doors. Given the straitened financial circumstances of most of the big city public school systems, the prospect of the wholesale transfer of tens of thousands of children from parochial to public schools induces nightmares. Meanwhile, some Catholic education leaders argue that the present proportion of youngsters in Catholic schools can be maintained if public support can be found for certain items in the broad category of child benefit, and if there can be appropriate cooperation between public and private education.

The Bogey of 'Establishment'

There is a school of thought which immediately equates any kind of cooperation between government and nonpublic schools with some form of *establishment*, which sees any collaboration between church-sponsored schools and the state as leading to fusion of church and state or to establishment of a state church. Such fears can lead to the grossest absurdities. A few years ago the executive director of the Northern California-Nevada council of churches filed a complaint with the San Francisco board of education charging that the employment of publicly paid truant officers to enforce attendance of children in parochial schools was "a complete violation of the separation of church and state." Three years ago a New York city board of education lawyer ruled that a Jewish high school lad's wearing a *kippah* on his head during class hours constituted a breaching of the wall of separation between church and state.

good there have always been patterns of cooperation between the state and church groups. The First amendment was not devised by the founding fathers to prevent church and state from working together. Though it is possible to interpret the amendment so as to require complete separation between the American state and the churches, in practice there has been cooperation and collabora-



tion between them. For anyone — whether a Supreme Court justice or a propagandist from P.O.A.U. or the American Jewish Congress — to hold that this is not so is to ignore history.

Just what is the permissible area of legislation which, in rendering incidental benefits to pupils, does not subsidize their church school? The favorable decision by the Supreme Court in the 1947 *Everson* case with its 5-4 split illustrates how one justice's benefit is another justice's subsidy. In upholding bussing — a form of assistance in no way related to a church's religious function — the majority opinion said that the New Jersey statute "approaches the verge" of acts impermissible under the First amendment. Certain other benefits — provision of milk and lunches, for instance — appear equally constitutional, since the benefit is plainly to the child and not to the school itself. Moreover, loans for specific purposes not closely related to religious instruction or ceremony were provided for in Title III of the National Defense Education act of 1958; church schools (including secondary and elementary schools) could borrow funds for equipment to improve the teaching of science, mathematics and languages. This precedent was cited in the preparation of the Elementary and Secondary Education act of 1965. Programs of this nature "advance specific national purposes, and their relationship to the religious function of a church school is remote."

Court in the *Cochran* case (upholding free textbooks for Louisiana's parochial school pupils) rested on the child benefit principle. The case was not contested on the issue of the First amendment; it remained outside the "establishment of religion" area. However, that issue too should be laid to rest after the Supreme Court ruling of June 1968, which by a 6-3 decision upheld the New York state textbook law. Speaking for the majority, Justice Byron R. White said:

We are unable to hold . . . that this statute results in unconstitutional involvement of the state with religious instruction or that [the law], for this or the other reasons urged, is a law respecting the establishment of religion within the meaning of the First Amendment.

Earlier, in upholding the constitutionality of the New York law, two judges of the appellate division of the supreme court of that state had drawn a meaningful analogy with the availability to parochial school students of books from a public library. Even the most fanatical separationist has stopped short of proposing that access to public libraries be denied those children. Yet public libraries contain many books, paid for out of public monies, that could be used to promote religion!

Opponents of the New York textbook law based their case on this contention: "There is no such thing as secular education in a sectarian elementary or secondary school. The whole curriculum is permeated by religion." It is true that some Catholic writers on education have long talked about how religion permeates the Catholic school. Sometimes Chesterton's remark that there is even a "Catholic" way to teach mathematics is used to buttress the "permeation" philosophy. Whatever the great G. K. had in mind, his remark is meaningful only when understood as reflecting the influence of Catholicism on any phase of a man's life. As St. Paul long ago reminded people, whether they are eating or drinking or traveling or thinking they should be doing it for God — so that "in all things God may be honored." In this sense there is a Catholic way of eating strawberries and a Catholic way of teaching mathematics and a Catholic way of practicing politics.

If there are no legitimate God-given values in human activity outside of revealed religion, then we reach ultimate absurdities. Moreover, as the defendants' brief argued, "if there is no secular education in such schools, then New York's Compulsory Education Law, as related to these schools, is completely baseless and New York's public policy . . . is unfounded." Finally, if there is "no such thing as secular education" in Catholic schools, the state should suppress them. The court did not agree: it upheld the law.

For anyone who has considered the pile of court cases since 1947 dealing with the question of publicly supported bus transportation for nonpublic school children, the inconsistencies, contradictions,

and prejudices which are interlarded with the decisions rendered are bewildering, to say the least. An incisive decision handed down in 1945 by the Kentucky supreme court cut through the emotional rhetoric of the absolute separationists in words that have still not got through to a lot of people:

In this advanced and enlightened age, with all of the progress that has been made in the field of humane and social legislation, and with the hazards and dangers of the highway increased a thousandfold from what they formerly were, and with our compulsory school attendance laws applying to all children and being rigidly enforced, as they are, it cannot be said with any reason or consistency that tax legislation to provide our school children with safe transportation is not tax legislation for a public purpose.

Federal vs. State Interpretation

When tests are made in state courts, however, the problem most often lies in the narrow, restrictive wording of the state constitution rather than in lack of concern on the part of voters, legislators and judges. This is why the citizens of certain states — New York and Wisconsin are examples — finally modified their state constitutions in order to extend the benefit or protection of busing to all school children.

A number of state cases have upheld tuition payments to sectarian institutions in special circumstances. Thus grants for the support of dependent, wayward, neglected or physically handicapped children in church-sponsored homes and institutions have been upheld on the basis that such payment is reimbursement, not use of appropriated funds governed by the state constitution. Since tuition grants directly to the pupil do not contravene the federal constitution, it would seem that, given the appropriate enabling legislation, any state could do for the general category student what it now does for the special category student.

Those who refuse to acknowledge the child welfare principle as operative here dismiss the weight of the *Everson* decision, claiming that it settles only the federal question. They point instead to the state constitutions, most of which contain explicit bars to the use of public funds for any but public school purposes. Here we have an anomalous situation: state constitutions in contradiction to the federal Constitution.

One may be pardoned some impatience on hearing that some proposed bus law in, say, Missouri or Indiana would violate the First amendment or breach the "wall of separation" between church and state. Since the federal question is settled, it is hard to understand how anyone can raise the issue with sincerity. This is all the more true since the Supreme Court in 1961 again reaffirmed its position in the *Everson* case by declining to reverse an appeal from a decision of the Connecticut supreme court favorable to the busing of par-

children. Perhaps there are valid arguments based on expediency or public policy which opponents of tax-supported buses for parochial school children might call upon, but separation of church and state is no longer one of them.

A New Concept Appears

In his concurring opinion in the 1948 *McColum* case Justice Robert H. Jackson made an observation about *Everson* which like an unexploded time bomb still ticking away. He said that if the school board's resolution in the *Everson* case had been "for protection of the safety, health or morals of youngsters it would not merely have been constitutional to grant it; it would have been unconstitutional to refuse it to any child merely because he was Catholic." That is the central question, which has to be squarely faced by the courts. Someday the principle must be tested. Legislative provisions which attempt to outlaw any and every form of direct assistance to church-sponsored schools are probably unconstitutional because they conflict with the First amendment's guarantee of religious freedom and with the Constitution's guarantee of equal protection" under the law.

One can readily agree with Mark De Wolfe Howe's wish that Justice Hugo L. Black, who wrote the majority briefs, "had spoken with greater caution in the *Everson* and *McColum* cases." The eminent member of Harvard University's law school faculty stated the critical point: Mr. Black's "resounding absolutes in respect to the religious disabilities of American government," he wrote, represent a "simplistic analysis" and "may still serve to delay and possibly to prevent the adoption of a national educational program of the dimensions the times require."

Practice Outruns Theory

What can we expect in the future? If the courts find unconstitutional certain measures for assisting parochial school pupils — provisions in the National Defense and the Elementary and Secondary Education acts, for instance — the scene may heat up. In places where awareness of a heavy Catholic population (and potential political clout) is a fact of political life, ways will be found to keep parochial education afloat. On the same score, more help can be expected from the federal government than from the states. At this writing more than a score of state legislatures are considering legislation similar to that already passed (but not tested in court) by Pennsylvania and Ohio, which would allow the state to pick up the bill for the teaching of such ostensibly neutral subjects as physical education, science and modern languages in nonpublic and nonprofi-

Since 1947 a dozen cases involving religion and education have been decided by the Supreme Court, and a decision has ostensibly piled another

layer atop the wall separating church and state. Yet today more public tax support goes to children in parochial schools than before 1947. What is the explanation for this paradox? Well, apparently American society has decided that there are ways to help children in nonpublic schools within the letter and spirit of the Constitution and has forthwith gone ahead and employed them — "wall" or no.

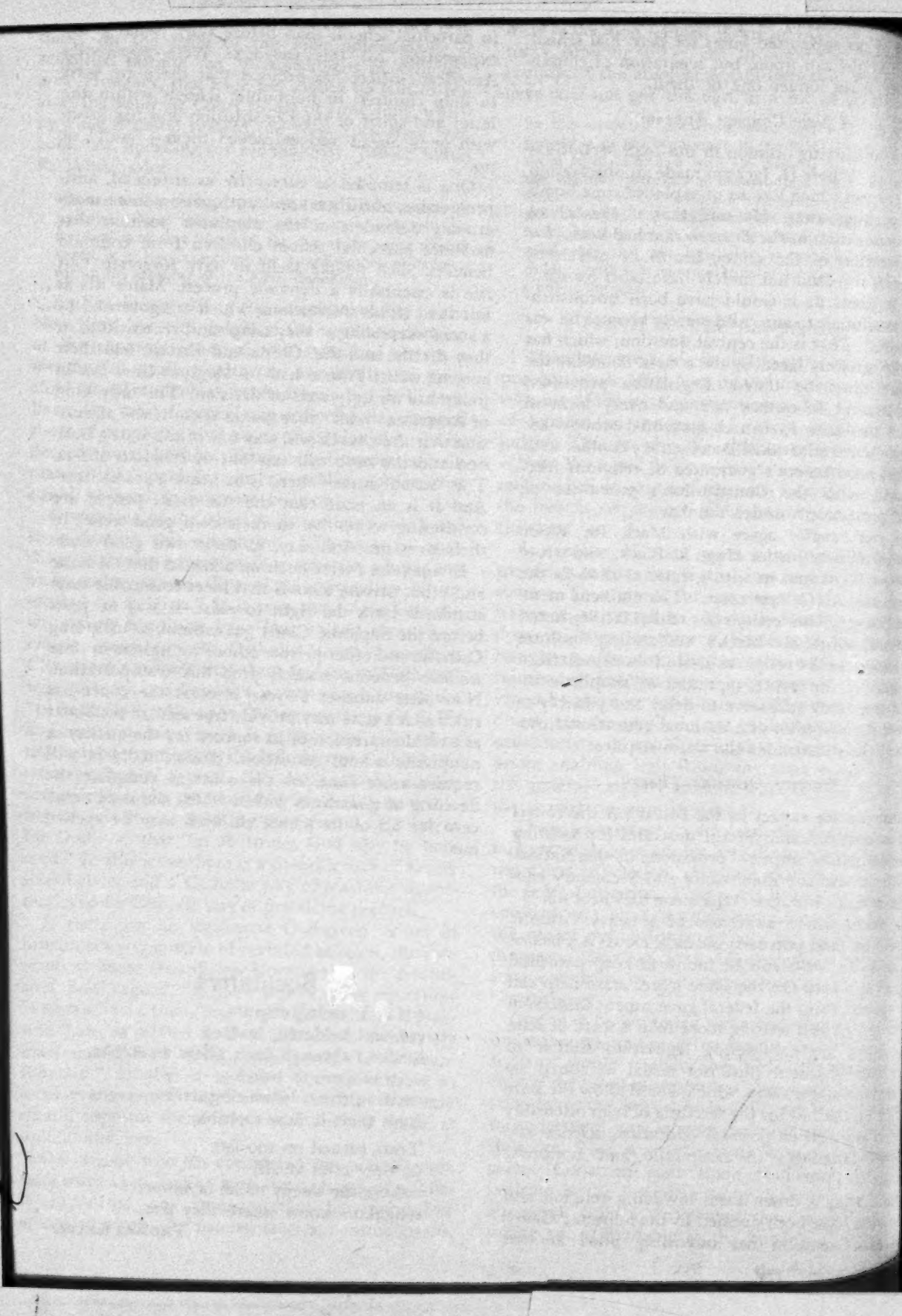
One is tempted to categorize as antisocial, anti-progressive, antiliberal and antiquarian those modern-day defenders of the absolutist position that excludes parochial school children from common benefits. Such people seem to have forgotten that life is essentially a dynamic process. Man's life is mirrored in his institutions, which are governed by a social metabolism: they adapt and reconstitute or they decline and die. China and Britain had their ancient walls; France had its Maginot line; Berlin today has an ugly wall of division. The only kind of American "wall" that makes sense is the affirmation that the church will stay out of the state's business and the state will stay out of religious affairs. The "school issue," then, is at heart a social issue. And it is an issue that the American people are continuing to resolve in their own good sense, in their own practical way, in their own good time.

In 1925 the *Pierce* decision affirmed that Catholic and other private schools that meet reasonable state standards have the right to exist. It was 22 years before the Supreme Court got around to including Catholic and other private school youngsters in state welfare benefits, notably free bus transportation. Now after another 22-year interval the court has ruled that a state may provide free secular textbooks as a valid expression of its concern for the quality of nonpublic school education. Undoubtedly it will require more time for the court to complete the devising of guidelines within which the state's concern for all of its school children may be spelled out.

Backbiters

+ LIKE racing engines
red and laddered, leading
shadows through back alleys to smoke,
fiery tongues to watch
exciting the cold waiting dark
from their hollow mouths.

Tears turned on too late
(if time cries at all)
to save the sleepy name of home:
neighbors know where they live.



Parochial School

If our schools are to justify our faith in them, there must be a rebirth of national concern with that unique American invention, the separation of church and state.

PHILIP JACOBSON

+ SYMPTOMATIC of our sick society is the travail of the public schools. This fundamental instrumentality of our socialization is beset by a bewildering variety of problems: persistently inadequate financing, demands for both desegregation and decentralization, far-reaching curriculum changes necessitated by technological and social upheavals, crippling strikes, and all the woes that affect most institutions in our decaying urban centers. Rather than an aid in reconstruction, our schools seem destined to become a victim of the times.

Casting still another shadow on the long-range future of public education is the recent decision of the United States Supreme Court in *Board of Education v. Allen* (June 10, 1968), upholding by a vote of 6 to 3 a New York statute requiring local school boards to buy secular textbooks and "loan" them without charge to nonpublic, including parochial, school children. This ruling has received far too little public attention, perhaps partly because authorities are disagreed as to its probable effects.

Msgr. George A. Kelly, secretary for education in the Roman Catholic archdiocese of New York, called the Allen decision "a Magna Carta for the parents of nonpublic school children," adding that public and nonpublic school education are now "working partners and will prosper or go bankrupt together." On the other hand, Leo Pfeffer, special counsel for the American Jewish Congress, called it a "narrow decision," merely following an earlier Supreme Court ruling which had upheld the constitutionality of tax-paid bus transportation of children to parochial schools.

I

The Supreme Court certainly will have ample opportunity to spell out much more precisely in the years ahead the limits, if any, of permissible tax assistance to church-related education; for on the same day that it handed down its ruling in the textbook case it declared that federal taxpayers have

the legal right to contest the expenditure of federal funds on the ground that it violates the religion clauses of the First amendment. The court thus overruled a 1923 decision which had denied federal taxpayers this privilege because, it was said at the time, their tax payments were too small to give them an appreciable interest in the matter.

While it would be foolhardy to read into a Supreme Court decision more than the court intended, it would be dangerous and shortsighted to miss the possible thrust of the majority's explanation in support of its ruling in the textbook case. The logic there employed may well determine the court's future course; may determine whether, in fact, a public-parochial school partnership is on the educational horizon. Let us look, then, at some passages of special interest in that ruling:

Underlying these cases, and underlying also the legislative judgments that preceded the court decisions, has been a recognition that private education has played and is playing a significant and valuable role in raising national levels of knowledge, competence and experience. Americans . . . have considered high quality education to be an indispensable ingredient for achieving the kind of nation, and the kind of citizenry, that they have desired to create. Considering this attitude, the continued willingness to rely on private school systems, including parochial systems, suggests that a wide segment of informed opinion, legislative and otherwise, has found that those schools do an acceptable job of providing secular education to their students. This judgment is further evidence that parochial schools are performing, in addition to their sectarian function, the task of secular education.

In the light of earlier Supreme Court decisions, this is an extraordinary statement. Of course, each of its affirmations has always been true. Yet on four separate occasions during the past 20 years the United States Supreme Court declared that "no tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion." Seemingly, the court majority now has reached the conclusion that the parochial school is not a religious institution!

Equally curious is the majority's statement that

Mr. Jacobson is widely known in intergroup-relations and religious circles for his writings in the church-state field.

means that many parents have found them to be doing an acceptable job in secular education. Maybe so; but then again maybe not. It could be that many parents simply want their children educated in a familiar sectarian atmosphere, without ever having given serious thought to the school's competence in providing secular instruction. Or they may be sending their children to private schools because the local public schools are overcrowded or otherwise deemed unsatisfactory.

II

But is the competence of the parochial school in the realm of secular instruction really the issue? The much more basic question, and one that is far more important to the future of the public school, is this: Is the so-called "secular" education given in the parochial school really a form of religious instruction?

No doubt, the court majority had this question very much in mind when it left the final decision for another day, saying that it could not agree that "all teaching in a sectarian school is religious or that the processes of secular and religious training are so intertwined that secular textbooks furnished to students by the public are in fact instrumental in the teaching of religion." The majority went on to explain that the case had come to it after "summary judgment," that is, without a trial, so that "nothing in this record supports the proposition that all textbooks, whether they deal with mathematics, physics, foreign languages, history or literature, are used by the parochial schools to teach religion. No evidence has been offered about particular schools, particular courses, particular teachers, or particular books . . ." Quite so. But neither was there anything in the "meager record," as the court described it, upon which to reach the conclusion that a "wide segment of informed opinion . . . has found that these schools [private and parochial] do an acceptable job" of providing secular education. Evidence of the sectarian character of the education — all the education — given in parochial schools was indeed lacking in the "meager record," but it was not at all difficult to come by.

The *raison d'être* of the parochial school is, or at least once was, that the main purpose of education is to instruct the young in what God purposes. After that, it has several secondary or tertiary purposes: to develop skills essential for learning, such as reading and writing; to prepare for a life as a useful member of society and of the family. From this it followed that religion must be the integrating thread in all of the educational process of the parochial school; that religion must permeate all phases of the curriculum, including secular instruction. In a word, if a parochial school is designed to fulfill its essential reason for being, the sacred and the secular are inseparable

within its walls. Accordingly, parochial school educators have said repeatedly — and with understandable pride — that the church-related school is the place for the child to learn systematically about his religion, to deepen his sense of religious dedication, to capture for the rest of his life a love of and loyalty to his religious heritage.

In our pluralistic, democratic social order, these are commendable goals for parents who want that kind of religiously colored education for their children. The question still to be decided by the Supreme Court is whether all Americans, of every religious persuasion or of none at all, are to be taxed for these sectarian endeavors. Distressingly few Americans appear to have any patience with that question today. Nevertheless, it is a question we ignore at our national peril.

III

The all-embracing sectarian character and purpose of the parochial school comes more sharply to the fore in light of the test the court majority elected to use in the textbook case:

. . . what are the purpose and primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and primary effect that neither advances nor inhibits religion.

In applying this test — of legislative purpose and primary effect — has the Supreme Court laid on the judicial shelf, at least for the time being, its oft-repeated assurance that "no tax in any amount" may be levied in support of any religious activities or institutions? Is it to be inferred that the court majority thinks of the parochial school as just another public school with a little religion added?

Constitutional scholars and political scientists are showing marked interest in the guidelines used by the court majority in deciding the textbook case. For example, Professor George LaNoue of Teachers College, Columbia University, is asking how the legislative intent will be determined. By the stated legislative purpose? Among the purposes on which the New York legislature grounded the textbook law was the intention to aid in the national defense. Now, it takes no great insight — or foresight — to conceive of legislators' writing into bills in aid of, say, parochial school construction that their purpose is nothing less than the national defense. Indeed, overzealous legislators may one day base enactments in payment of ministers' salaries on the beneficent purpose of strengthening the national morals and, consequently, the national defense.

Do these concerns seem too far-fetched to be taken seriously? Consider the thought advanced by Nathan Lewin, deputy to the assistant attorney general



case of Portland. There is no doubt that the teaching of the subject matter in this manner in a public school would be contrary to law.

In practical terms, what will a public-parochial school partnership mean? It could mean — again, it must be emphasized that this is by no means certain — that the public treasury will be called upon to provide at least 80 per cent of the parochial school budget; that is, every phase of the school's curriculum other than outright religious instruction, which probably takes but one period a day. If this is the meaning of the textbook decision, the United States Supreme Court may well have sealed the fate of the public school. Notwithstanding the partnership embrace, there will be a scramble for the tax dollar which will almost certainly prove a crushing experience for the public school, and with good reason:

(1) The church-related school is free not only to teach religion; it may provide, as well, a "God-centered" secular education for children whose parents desire that type of schooling. The public school, on the other hand, is not only foreclosed from giving sectarian religious instruction; it may not even sponsor nonsectarian prayer and Bible reading exercises. Parenthetically, this presents an interesting paradox: the public school constitutionally barred from sponsoring prayer and Bible reading, while a tax-supported parochial school presumably could provide sectarian instruction and saturate every phase of its secular curriculum with a religious emphasis.

(2) The parochial school, being private, may be as selective as it chooses in its enrollment policy, whereas the public school, being public, must necessarily accept all children, without discrimination.

Many church schools, although barred from federal funds under Title VI of the Civil Rights act if they discriminate on racial grounds, will nevertheless maintain largely white enrollments if only because of the sectarian appeal of private schools and the economics of running them.

In a great many instances, of course, the racial imbalance may be entirely incidental to the sectarian composition of the school, which may well explain the complaint made by Richardson Dilworth, president of the Philadelphia school board:

Today, in our city, approximately 40 per cent of the total school population is in parochial and private schools. The result is that while only 30 per cent of our city's population is non-white, 57 per cent of our public school pupils are non-white. And, today, there are more white children in the parochial and private school system. If this trend continues . . . then 20 to 25 years from now, our big cities may find themselves with public school systems almost entirely non-white, and parochial and private school systems at least 90 per cent white [quoted by Joseph M. Cronin in "Negroes in Catholic Schools," the *Commonweal*, October 7, 1966].

charge of the civil rights division of the justice department, at a conference of Orthodox Jewish leaders in September 1967:

It is entirely possible . . . that by 1980 the concept of public welfare legislation and governmental financial support for otherwise private associational activities may have expanded to the point where Congress could constitutionally enact a National Religion Assistance Act. Such a statute might recognize that religious activity in the United States could not continue without federal financial support and that religious life is part of the fabric of our society . . . [p. 53 in a pamphlet on the conference published by the National Jewish Commission on Law and Public Affairs].

IV

The second part of the test used by the court majority in the textbook case — whether the enactment advances or inhibits religion — may pose even more troublesome problems for the court. How does a teacher use a textbook? Skilled teachers have been known to use *Mein Kampf* to teach a lesson in democracy. Why won't a dedicated parochial school teacher, properly intent on saturating every phase of her classroom instruction with a religious purpose, use the most secular of textbooks to inject that specialized type of sectarian instruction?

There is much evidence that such is indeed the practice. To cite but one example: In the *Dickman* case, the Oregon state supreme court considered a challenge to a statute which made textbooks available to parochial schools at public expense. It said:

The evidence establishes, and the trial judge found, that the purpose of the Catholic church in operating the St. John's school and other similar schools under its supervision is to permeate the entire educational process with the precepts of the Catholic religion. The study guides used by the teachers in St. John's school indicate that, to some extent at least, the use of the textbooks furnished by the district is inextricably connected with the teaching of religious concepts. These study guides were prepared by the superintendent of schools of the district.

is well known, the church-related school is in large measure the haven of children of reasonably well educated, higher-income parents. Moreover, the private school is free to select children on the basis of high academic quality and to exclude the emotionally disturbed, the trouble-makers, those with a high rate of failure or a high dropout rate.

(3) Finally, the church-related school is exempt from public control; the paying public has no voice in its management, policies or purpose. Thus, obviously, a public-parochial school partnership would involve no contest in the appeal for public favor. The result, in time, would be a vast proliferation of denominational schools; a spectacular growth of nonprofit private secular schools which, in all likelihood, will be even more selective in their student enrollment than the parochial schools; and a greatly deflated and depressed public school—for the poor, the racial minorities, the culturally deprived, the misfits, society's rejects.

Should that happen, grave dangers would threaten our democratic societal fabric. Where would be the neutral ground for the kind of democratic education that our public school has represented? Where would be the neutral ground for the contending philosophies that are always welcome in the public school—in contrast to the ultimate, sectarian dogmas of the parochial school?

This overview of the public school is eloquently stated by Justice Brennan in the *Schempp* (Bible reading) case:

... It is implicit in the history and character of American public education that the public schools serve a uniquely public function: the training of American citizens in an atmosphere free of parochial, divisive, or separatist influences of any sort—an atmosphere in which children may assimilate a heritage common to all American groups and religions. . . . This is a heritage neither theistic nor atheistic, but simply civic and patriotic. . . . Attendance at the public schools has never been compulsory; parents remain morally and constitutionally free to choose the academic environment in which they wish their children to be educated. . . . The choice which is thus preserved is between a public secular education with its uniquely democratic values, and some form of private or sectarian education, which offers values of its own . . .

V

Is the picture I have painted much too gloomy, particularly in light of the court's implied caveat that the secular instruction of the parochial school must not be so intertwined with the religious as to be inseparable from it? Only time holds the answer to that question. If the curriculum and structure of the parochial school remain substantially unchanged, the Supreme Court may yet agree that the secular and the sectarian are inextricably intertwined, and approve tax aid only for bussing and other auxiliary services. But there is evidence that

those responsible for church-related education are beginning to see the need to desectarianize their institutions—to transform their Notre Dames into replicas of Yale, Harvard, Princeton—so as to make them eligible for public funds. This need was recognized when, in 1966, Maryland's highest court struck down state grants to three denominational colleges—two Catholic and one Protestant—on the ground that they were sectarian in their curriculum practices, their student bodies, their management and control. At the same time, the court refused to interfere with a similar grant to a fourth (Protestant) college because it lacked these sectarian characteristics.

Reflecting on the Maryland decision, which the United States Supreme Court declined to review, Daniel A. Degnan suggested (in *America*, May 23, 1968), as a first step, a changeover to a secularized Catholic university, a new composition of the boards of trustees, and a shift to a "neutral or nondenominational policy." But while Catholic colleges would thus become "truly secular," Degnan continues, they should maintain "strong departments of Catholic theology" and present opportunities for "students' growth in faith" through religious instruction and activities. "Theology and the life of faith," Degnan concludes, "are not incompatible with the concept of a neutral, secular university . . ."

Translate these ideas to the elementary and secondary levels: Will the courts then be confronted with a "nonsectarian parochial" school? Will these "neutral" schools still have as their main purpose the instruction of the young in the divine purpose? How will the secular instruction relate to the all-important central purpose?

The grave difficulty these questions present for the Catholic Church is apparent from a comment on William Ball's article "The Pennsylvania Compromise" (*America*, October 26, 1968) wherein he justifies that state's method of aiding parochial education: the creation of a nonpublic school "Authority" which is empowered, with the aid of state-raised funds, to "purchase" secular education services in nonpublic, including parochial, schools. Mr. Ball, who helped fashion the "compromise," defends this device, saying that any religiously permeated instruction would not be compensable under the act, there being controls that would guarantee the secularity of the purchased instruction. James W. Kirby, S.J., president of St. Ignatius High School of Cleveland, in a letter to *America* (November 23) expresses dismay over Ball's "attempts to justify the secularization of Catholic education in Pennsylvania." Kirby is concerned that the "kind of controls included in the Pennsylvania bill hit at the heart of what Catholic education is all about—a value-centered education." And he adds, "I agree with those who will have no part of such a sell-out."

Ironically, the differences here exposed com-

Orphans of the Universe

+ LIKE a naive guest for virgin love
Hesitant heroes baptize themselves in blood
Anoint sandbagged altars
With gut wound roses.
Fate's armed progeny
Catapulted to the corridors of hell
Writhing spirits in mud caked bodies
Cower before that uncouth bastard
Who dares in groaning finality
With half a body pasted to trench walls
To curse God's glorious seven days' work
Crawl in blind defiance of fact
Like beaten bloodied dogs
Toward deliverance at a dug-in position
Along the greased machine gun barrel
Feast forlorn eyes on sharp curls of concertina
And then split between your teeth

And against regulations
Light a cigarette
And with a burst of machine gun jargon
Discuss one night's last lovely whore.
Orphans of the universe
Consigned by unreconciled fate
To the dark side of man's nature
Your hope is denied destiny
Your food the death of comrades
Shroud your fear in barren rage
Camouflage ripped chests with medals
Plug gut wounds with sterile citations
Embrace the ardor of your loneliness
And know the sentries of your red ordeal
Are the million mute ghosts
Of Time's ravaged warriors.

MAURICE COCCHI.

the fore at the very moment when much thought is being given in Catholic circles to the continuing validity of the parochial school. (I speak mainly of Catholic parochial schools because they are attended by 90 per cent of the private-school children in this country.) For example, Gerald P. Fogarty observes (*America*, September 28, 1968): "In the light of developments during the past 80 years, the historical reasons for establishing parochial schools are no longer valid." He points out that these schools came as a protest against the publicity-supported, Protestant-oriented public schools of the 1840s; that Archbishop John Hughes had appealed to the New York Public School Society (a private organization which, nevertheless, had a virtual monopoly over the New York city school system of those days) for neutral schools which Catholic children could, in conscience, attend. The society ignored Archbishop Hughes's appeal and introduced the King James Bible and Protestant prayers into the public school curriculum, where they remained for many years. But today, Mr. Fogarty notes, the public schools are providing the neutral education the archbishop called for.

Legal and other niceties aside, we need to be reminded (à la Mr. Dooley) that the Supreme Court reads the election returns." Doubtless the "returns" will be read in terms of what the Supreme Court calls "informed opinion," as revealed by legislative action and other forms of public expression. But legislative action, as so many of us have to learn, is quite often a reflection of the

religious realities in law-making. Two examples:

One was the Michigan legislature's adoption of a bill for auxiliary educational services for parochial school children. The vote in favor was 90 to 9 in the House, 33 to 1 in the Senate.

The other example: While the nonpublic school "Authority" bill was pending in the Pennsylvania legislature — and making very little headway — the Philadelphia diocesan newspaper, in a front-page editorial, put the governor on notice: "Catholics of the Commonwealth now know that they cannot number among [their] friends Governor Raymond P. Shafer and the Republican leadership in Harrisburg. We Catholic taxpayers have been patient with this administration too long . . ." (Quoted in the *Commonweal*, June 7, 1968, page 350). The report goes on to say that Assemblyman Mullen, the sponsor of the bill, "nearly succeeded in wrecking the Governor's 1968 budget and tax program by refusing to allow it out of the House Appropriations Committee [Mullen was the minority chairman] until Shafer promised consideration of the parochial school bill. The tension brought the Governor and the Pennsylvania trade mission he was accompanying back early from Europe to meet with the Catholic bishops. . . ."

These illustrations are cited not only because we hope to demonstrate that legislative action is hardly a fair barometer of "informed opinion," but also to make the additional point that the essential genius of the beneficent church-state separation doctrine lies in the fact that it puts tax aid for religious

other public officials.

VI

Where are we today? All answers to this question must relate to the revolutionary ferment unloosed by Pope John XXIII when he moved to "let some fresh air" into his church. A sage observer of the current scene, Paul A. Reynolds, professor of philosophy at Wesleyan University, offers a candid opinion (*The Christian Century*, August 7, 1968):

The whole concept of separation of church and state was based on the assumption that the church was a supernatural agency whose ministry was quite distinguishable from that of the state. All this is now compromised. How did it happen?

Reynolds' answer is that today "prayer and sacred rituals are no longer existential encounters with the holy"; churches are now classified as mere agencies of "social service." One example he cites is the parochial school, which "once was said to have a peculiarly pervasive religious and supernatural purpose; today the insistence is . . . that such schools are in no way suffused with any religious ideas; that physics, say, is just plain mundane physics, with no special relevance to divine doctrine or immortal salvation." So, he concludes, our problem today is no longer the "relation of the sacred and secular, or church and state." Today, the role of the church is no longer distinguishable from government. The question then is not "whether the state should tax a man to support religion (since religion and secularism are indistinguishable), but whether the state should tax a man to finance private policy makers in education."

How did it all happen — here?

It is difficult to know where to start in answer to that question, or how to apportion the blame, but it may profit us to attempt a brief exploration:

There are numerous well intentioned people — they include jurists, politicians in high places, religious leaders, educators — who seemingly are convinced that the separation principle is amenable to a safe compromise. The church schools, they tell us, are in serious financial difficulty; ghetto children suffer grave educational deprivation (as indeed they do); and the parochial schools are contributing to the education of America's youth. Why not, they ask, relax the principle, concede the not-too-serious infractions, yet leave the doctrine reasonably intact?

The futility of compromise of separation is revealed in the brief history of the National Defense Education act. This legislation was America's initial response to Sputnik. It provided grants in aid of public education and loans to sectarian schools. When objection was raised at a congressional committee hearing to the inclusion of church-related schools as beneficiaries of public funds, the explanation offered was that the education act was limited

to aids to strengthen instruction in mathematics, physical sciences, and foreign languages (after all, you don't teach religion by way of an algebraic equation). Hardly anyone paid attention when the act later was expanded to extend to the teaching of English, history, the social studies — virtually every phase of the school curriculum.

Again, there are those — we think here of editorial writers and policy makers for the great newspapers — who act in these matters largely out of political instinct and with little regard for long-range consequences. For example, many newspapers unwaveringly supported President Johnson in his advocacy of the "compromise" represented by the Elementary and Secondary Education act of 1965. Only three years later, many of these very same newspapers criticized with equal vehemence the Supreme Court decision on textbooks, apparently unaware that the 1965 E.S.E. act, and likewise the New York statute which the Supreme Court has upheld, make it possible for local school boards to provide textbooks for parochial school use.

Finally, there are those who apparently believe that the "ecumenical" spirit of our age calls for at least a partial abandonment of the separation principle. "We get along quite well now. We understand one another, trust each other. What need is there for a wall of separation?" Perhaps only time — with history repeating itself — will serve to demonstrate that the surest guaranty of religious peace is a truly voluntary church and a high, impregnable wall of separation between that church and the state.

The American public school was a revolutionary concept linked to a great humanitarian dream: the development of an informed citizenry and the achievement of the goals of American democracy. Henry Steele Commager observed in a memorable statement (*Life* magazine, October 16, 1950), "Our schools have kept us free; they met the challenge making us a nation. In the intervening years, the essential tool of democracy has come upon difficult days, as have many institutions serving our decaying urban centers. But, as Professor Commager went on to say, if society "clearly defines the new duties it wishes our schools to fulfill and if it steadfastly supports them not only with money but also with faith, they will surely justify that faith in the future as they have in the past."

But if our schools are to justify our faith in the future, there must be a rebirth of national concern with that equally unique American invention, the separation of church and state. To be sure, there are overriding concerns — Vietnam and the ghetto. But we dare not neglect the church-state issue. We look to the courts as the sole and final arbiter of the issue. Each of us must awaken to the dangers which one day prove to be quite as damaging to national well-being as Vietnam and the uprising in our ghettos.

NEW YORK TIMES, October 1, 1969

Connecticut Challenged in Suit Over Aid to Nonpublic Schools

By JOHN DARNTON

Special to The New York Times

10/1/69 p. 34

HARTFORD, Sept. 30—A suit as a major test and expect it to reach the high court. challenging the constitutionality of state aid to parochial and other nonpublic schools was filed today in the United States District Court for Connecticut.

The action, sponsored by the Connecticut Civil Liberties Union and 10 other organizations and individuals, sought an injunction to halt the allocation of \$6-million in direct state aid to the private schools.

The money was provided for in a bill passed by the State Legislature on June 3. It was designed to bring financial relief to the state's hard-pressed Roman Catholic institutions.

Under the basic provision of the bill, which became effective July 1, the state would pay 20 per cent of the salary of an instructor who teaches secular subjects in any of the 360 private schools.

The plaintiffs argued that such payments violated guarantees of religious liberty and the separation of church and state in both the Connecticut and the United States Constitutions.

In addition they maintain that the funding would contribute to the existence or growth of de facto segregation in private schools, in opposition to the 14th Amendment.

A Key Clause

When the legislation was passed, its supporters felt that the inclusion of a clause specifically prohibiting reimbursement for teachers of religious subjects kept it within constitutional bounds.

A similar law in Pennsylvania—also based on the "purchase of services" formula—is currently being challenged in a Federal Court there.

In New York, proposals for direct state aid to parochial schools were not passed by the Legislature and a bill making religiously affiliated colleges and universities eligible for state aid was vetoed by Governor Rockefeller.

Previous New York legislation permitting the state to bear some of the costs for buses, lunches and text books in private schools has been upheld by the United States Supreme Court.

Lawyers for the Civil Liberties

One of the plaintiffs in the suit is the Connecticut State Conference of Branches of the National Association for the Advancement of Colored People. At a news conference, William Jones, the organization's executive director, said parochial schools show "a deliberate design to exclude nonwhites."

Incentive Provision

Mr. Jones said that an "incentive" provision of the state-aid bill, gearing the salary reimbursements to the proportion of students from low-income families, would not be effective in correcting racial imbalance.

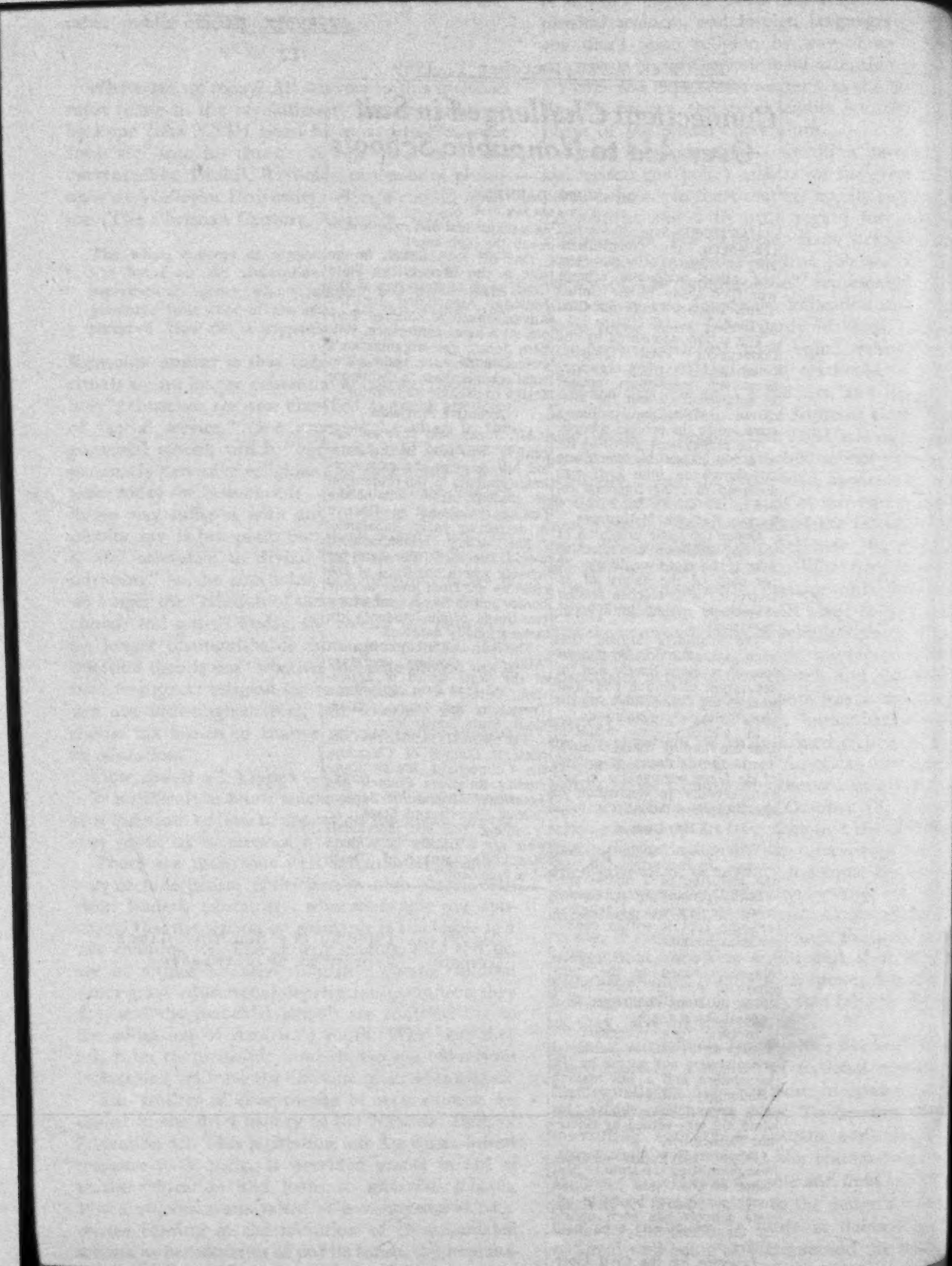
The salary reimbursement would rise to 50 per cent for schools where one-third of the children are from lower income homes and to 60 per cent where two-thirds of the students are "educationally deprived."

The suit was brought against William J. Sanders, secretary of the State Board of Education, Gerald A. Lamb, State Treasurer, and Louis I. Gladstone, State Controller.

The plaintiffs include the Connecticut Council of Churches, the Connecticut Jewish Community Relations Council and Americans United for Separation of Church and State.

Among the six individuals who are plaintiffs is William Manchester, author of "Death of a President."

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NEW YORK TIMES, June 8, 1969

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State Aid to Nonpublic Schools Challenged in Pennsylvania Suit

Special to The New York Times

6/8/69

PHILADELPHIA, June 7 — State aid to nonpublic schools was challenged here this week in a suit filed in the United States District Court for Eastern Pennsylvania.

Six religious, civil rights and educational organizations and three taxpayers asked the court to declare such aid unconstitutional.

A spokesman for the plaintiffs said that Pennsylvania had been selected as the site to test nationally all legislation providing aid to nonpublic schools.

The complaint asserts: "This is a civil action brought for a temporary and permanent injunction against the allocation and use of funds of the Commonwealth of Pennsylvania for the support of, or to finance in whole or in part, sectarian schools and other private schools whose policies and practices, by purpose or effect, exclude from admission or otherwise discriminate against persons by reason of race or religion and to declare such use as violative of the First and Fourteenth Amendments to the Federal Constitution."

Judge William H. Hastie, chief judge of the United States Court of Appeals for the Third Circuit, was asked to name a three-judge panel to hear the case. Leo Pfeffer, a lawyer for the plaintiffs, said at a news conference that the case would probably go to trial in the fall of this year.

The three-judge panel would include judges from the Court of Appeals and would thus obviate any appeal to that court. The strategy was that the appeal would go directly to the Supreme Court.

The Pennsylvania Nonpublic School Aid Act, the first of its kind in the country, was passed last year. Nonpublic schools are to receive \$4.2-million from the

commonwealth this year. The Pennsylvania House has passed a bill increasing this year's funds to \$21-million and the allocation next year to \$41.4-million.

Msgr. Edward T. Hughes, superintendent for the Roman Catholic Archdiocese of Philadelphia, said of the suit that he was "saddened at this action" but was "confident that justice and equity will be assured for all children in Pennsylvania."

The plaintiffs are:

The Pennsylvania State Education Association.

The Pennsylvania Conference of the National Association for the Advancement of Colored People.

The Pennsylvania Council of Churches.

The Pennsylvania Jewish Community Relations Conference.

Americans United for Separation of Church and State.

The American Civil Liberties Union of Pennsylvania.

Mrs. Richard G. Morrell.

Mrs. Priscilla Reardon, Alton J. Lemon.

The suit was filed by Henry W. Sawyer 3d, a lawyer.

Named as defendants were:

David H. Kurtzman, State Superintendent of Public Instruction.

Grace Sloan, State Treasurer.

St. Anthony's Roman Catholic Church School, Chester.

Archbishop Woods Catholic Girls High School, Warminster.

Ukrainian Catholic Holy Ghost School, Chester.

Germantown Lutheran Academy.

Germantown.

Akiba Hebrew Academy, Merion Station.

Philadelphia Montgomery Christian Academy, Wyncote.

Beth Jacob Schools of Philadelphia.

The suit contends that "nonpublic schools . . . are de facto, racially segregated, either by religious requirement, design, tradition, policy, quota, cost, or residential pattern and the aid rendered to such school will perpetuate and promote segregation in that said subsidy will further enable private schools to increase their enrollment."

STATES DEBATE AID TO PRIVATE SCHOOLS

The issue of state aid to parochial and private schools was introduced in at least thirty-one Legislatures this year.

Four States—Ohio, Rhode Island, Connecticut and New York—are among those approving aid to private schools, with certain restrictions. Several other States authorized aid to students attending private institutions.

Two States—Massachusetts and Maine—approved constitutional amendments dealing with the issue for submission to the voters.

PENNSYLVANIA'S AID CHALLENGED

A challenge to Pennsylvania's direct aid to parochial schools, which gained legislative approval in 1968, was filed in June in the United States District Court in Philadelphia. The suit, brought by six major organizations, alleges that the aid violates the First and Fourteenth Amendments to the Constitution. The case is scheduled for trial in the Fall, with any appeal expected to go directly to the United States Supreme Court.

Pennsylvania's nonpublic schools were to receive \$4.2 million from the State this year.

OHIO APPROVES \$35.77 MILLION

The 1969 Ohio General Assembly approved a total of \$35.77 million in state aid to nonpublic schools for the 1969-71 biennium. An appropriation of \$18.27 million was approved for fiscal 1969-70, and \$17.5 million was authorized for fiscal 1970-71.

In 1967, the Ohio Legislature had authorized payment of a subsidy to nonpublic, as well as public, schools for the provision of services and materials to disadvantaged children. Legislation passed by this year's General Assembly substantially expanded the 1967 act. The 1969 legislation authorizes state aid for "supplementary education service contracts" entered into between school districts and lay teachers who teach state required secular courses in nonpublic schools. In order to qualify for such salary supplements, the nonpublic school teacher must be certified by the State and the nonpublic school must meet State Board of Education standards. Other provisions in the 1969 legislation pertain to the nonsectarian nature of textbooks, and the quality and costs of services compared to those offered in public schools. In addition, the State Superintendent of Public Instruction is required to review the educational standards of nonpublic schools.

CONNECTICUT APPROVES AID

In June, the Connecticut General Assembly approved \$6 million in state aid to nonpublic

schools. Under the plan, the State will pay 20 percent of the salary of a teacher of secular subjects, and the State will allow also ten to fifteen dollars per child for nonreligious textbooks. The State also will pay 50 percent of teacher costs if one-third of the school's enrollment is educationally deprived children, and subsidize up to 60 percent of such cost if two-thirds of the enrollment is educationally deprived. The act also calls for "open enrollment" in nonpublic schools, that is admitting Connecticut children regardless of religion, with state aid being paid proportionately.

Written into the act is a provision for a speedy court test, allowing for such a challenge to be filed even before the first funds are paid in September 1970.

RHODE ISLAND SALARY SUPPLEMENTS

The Rhode Island Legislature, before its May adjournment, approved a measure authorizing \$375,000 in state salary supplements to teachers in parochial schools. The act attempts to exclude payment to members of religious orders by requiring that, to qualify, teachers receive a minimum salary of \$4,000. They also must teach only secular subjects, use only teaching materials used in state public schools, and have been awarded a board of education teaching certificate. (See State Government News, June 1969.)

OTHER STATES' ACTIONS

In June, the Massachusetts Legislature, meeting in a constitutional convention, approved a proposed constitutional amendment to supplement salaries of certain teachers in privately controlled schools. The amendment must be passed again by the 1971-72 Legislature before it can be put on the 1972 ballot for voter ratification.

The Maine Legislature approved a constitutional amendment which would permit the State to lend up to \$25 million at any one time to private colleges for building construction. The amendment will be voted on in November if a special election is called. Before its July adjournment, the Legislature also passed an act that will permit the Education Department to approve payment of tuition to private secondary schools if they are accredited by the New England Association of Colleges and Secondary Schools. Previously, such tuition payments could only be paid to schools meeting state standards, which includes teachers certified by the State.

The Minnesota Legislature has passed an act providing funds to reimburse school districts for sharing class time with parochial schools in such specialty courses as home economics and shop work.

In Illinois, administration measures to provide \$32 million in state aid to private and parochial schools and \$14 million to private colleges and universities passed the House, but died in Senate committees. The Legislature adjourned June 30.

New York's constitution bans aid to church affiliated schools and on this basis Governor Nelson Rockefeller this year vetoed a legislative measure that would have aided church affiliated colleges. The 1969 New York Legislature authorized a total of \$24.1 million in state aid to private nonsectarian colleges for the 1969-70 academic year.

The 1969 Washington Legislature approved a \$600,000 scholarship fund for tuition aid to needy students. The recipients may attend private and sectarian institutions of higher education, as well as public schools.

In Oregon, the Legislature approved \$1.3 million in \$100 grants to state residents attending private colleges.

A commission to study the parochial school problem was created by the 1969 New Hampshire Legislature before its July adjournment. A special commission was also appointed in Maryland in March to study the question of state aid to parochial schools. Bills calling for such aid are being prepared by several Maryland legislators for introduction in the 1970 Legislature. An earlier effort to provide state aid to church affiliated colleges in Maryland was ruled unconstitutional.

The Kentucky Catholic Conference has announced it will ask the 1970 Kentucky Legislature to permit a "purchased-services" program under which parochial schools would be paid by the State for giving instruction in nonreligious subjects. Several Kentucky Catholic schools already have "shared-time" agreements with nearby public schools in some secular subjects.

The California Legislature passed an act authorizing school districts to reimburse parents of handicapped or retarded children for education expenses at private, nonsectarian schools when public school facilities are unavailable. The bill now awaits gubernatorial action.

Efforts to provide state aid to parochial and nonpublic schools died in the Michigan, Vermont, and North Dakota Legislatures. Direct state-aid legislation failed in several other States, while some form of aid is being considered by other Legislatures.

COURT DECISIONS ON SCHOOL AID

The U.S. Supreme Court has yet to render a definitive decision on the issue. In 1947 the Supreme Court supported the constitutionality of state-supported bus transportation for parochial students, ruling that the aid helped the children and not the schools. The court also upheld the Elementary and Secondary Education Act of 1965, which provides federal funds to public and paro-

chial schools on the basis of the number of poor children in each district, on the ground that it was based on aid to children rather than to institutions.

It also upheld the lending of textbooks bought with public funds to parochial pupils in New York in a June 1968 ruling. But, it has recently left standing a lower court ruling holding state aid to church affiliated colleges in Maryland unconstitutional.

KENTUCKY COORDINATES STATE SOCIAL SERVICES

Two human resources coordinating groups were formed in Kentucky in July to help make the State's social services more effective.

The coordinating groups, Governor Louie B. Nunn said, will eliminate many instances of "overlapping, fragmentation and inconsistencies in human services." The new Human Resources Coordinating Commission will consist of the heads of eight state departments that deal with people and their problems. The other group, the Human Resources Coordinating Council, will include both lay and professional people, as well as the recipients of state social services.

UTAH COURT UPHOLDS LEGISLATURE

Six legislative appointments to Utah's new State Board of Higher Education were declared constitutional by a state district court in July.

Governor Calvin L. Rampton had challenged the right of the Senate President and the House Speaker each to appoint three board members. The Governor appoints the other nine members of the fifteen-member board. (See State Government News, July 1969.) The Governor contended that the appointments were legislative intrusion into the executive branch, on the basis that the state constitution gave the Governor the power to appoint the education board members.

In its ruling, the court said that an act of the Legislature is legal when the constitution does not prohibit it. It also said sufficient precedents for the law existed.

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